

Act 25 to Strengthen Consumer Protection

On July 17 **Governor Edward G. Rendell** signed Act 25 into law, which is a major legislative accomplishment for the Bureau for Professional and Occupational Affairs and its boards. This law amends Act 48 of 1993 by adding a provision raising the maximum fine the board imposes for violations of the licensing laws or regulations from \$1,000 to \$10,000, as well as authorizing the licensing boards to impose the costs of investigation. Furthermore, the act provides privilege protection to Department of State investigative files, as well as confidentiality requirements.

"BPOA has been working to pass this legislation since 2004," **Commissioner Basil L. Merenda** said.

"This is an important law because the new maximum fine acts as a very strong deterrent to unlawful activity by licensees, which in turn will enable us to more effectively protect the health, safety and welfare of every consumer in the commonwealth."

Act 25 will affect all 29 boards where professionals range from physicians and cosmetologists to accountants and funeral directors. The law, which was passed in the legislature as Senate Bill 142, will go into effect 60 days after its enactment. At that time, prosecutors will be able to recommend to the respective licensing board to impose the maximum fine if the violation is egregious.

Mobilizing board members to reach across party lines to contact senators and representatives was also key in the enactment of this bill. The board members explained, from their viewpoint, why this legislation needed to be passed to effectively carry out Bureau of Professional and Occupational Affairs' and each board's mission.

Future plans for legislation include proposals to create a statutory obligation for a licensee to cooperate with investigators and prosecutors in disciplinary matters and authorizing the boards' authority to expunge a disciplinary history of a license for minor violations such as failure to complete the continuing education requirement.

Department of Health H1N1 Vaccine Registry

The Pennsylvania Department of Health is extending the opportunity to health care providers, pharmacists, schools and other potential vaccinators to provide the H1N1 influenza vaccine for administration to persons who fall within the targeted groups to receive the vaccine. The vaccine along with items such as needles, syringes, sharps containers, and alcohol swabs will be supplied directly to participating providers at no cost.

In order to participate in the program, providers will first need to pre-register requesting to be a provider of the H1N1 influenza vaccine; however, pre-registration does not obligate or ensure a provider will be chosen for participation. Pre-registered providers will receive email updates about the H1N1 influenza vaccination program and important information to prepare their facility to store, handle and administer the vaccine properly. Those providers selected who place orders and meet the conditions of the H1N1 influenza provider agreement will receive vaccine. Because this program is still under development, the department cannot guarantee timing or size of shipments.

The pre-registration site was launched Sept. 1, 2009, and we are encouraging providers to pre-register by completing a brief online registration in the Pennsylvania Statewide Immunization Information System (PA-SIIS) at www.health.state.pa.us/pasiis and select the **H1N1 Online Pre-Registration Request**. After pre-registration is completed, the provider will be guided through a user tutorial to access the PA-SIIS. Please note that a provider should only register one time.

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Additional information and notification regarding the pre-registration site will be forthcoming. For questions or assistance about registration in the PA-SIIS, please contact the PA-SIIS Help Desk at 1-877-774-4748. All other questions regarding H1N1 influenza vaccination pre-registration should be directed to Dr. John Bart at 717-787-4366.

Telemedicine and Internet Prescribing

The State Board of Medicine is in the regulatory process for issuing rules concerning telemedicine and teleradiology. Currently the board does not have specific regulations addressing the parameters of how to engage in the practice of medicine over the Internet. Neither does the Board regulate the practice of the profession by specific setting, procedure, or patient condition. At this point in time, existing minimum standards of care require that prior to developing and implementing a treatment plan a physician must:

- obtain a proper medical examination and history;
- render a competent diagnostic determination;
- advise and counsel the patient on that determination;
- document the history, physical, diagnostic tests, and treatment plan; and,
- engage in and document follow-up counseling and treatment.

The board's regulation pertaining to medical records at 49 Pa. Code § 16.95 is one indicator of this standard. Accordingly, it would be incumbent upon the physician to adhere to these parameters.

Under federal law (Title 21, Code of Federal regulations, Section 1306.04) for a practitioner to be acting in the usual course of professional practice, there also must be a bona fide doctor/patient relationship. An individual completing a medical questionnaire that is reviewed by a practitioner hired by an Internet website does not establish a doctor/patient relationship.

Over the last several years, the Internet has increasingly been used by drug seekers to obtain illegally controlled substance pharmaceuticals. The U.S. Drug Enforcement Administration (DEA) is aware of the increase in the number of Internet "customers" who are interested in obtaining controlled substances without a valid prescription or legitimate medical purpose.

The DEA recognizes that while some Internet Web sites facilitate legitimate prescribing and dispensing, other Web sites facilitate the illegal sale of controlled substances. The DEA uses traditional criminal investigative approaches to arrest doctors as well as others who are involved in the illegal sale of controlled substances over the Internet.

Special Note to Practitioners Regarding National Provider Identifiers (NPIs)

If you voluntarily surrender your license or retire and will no longer be providing health care in this or any other state, please remember to deactivate your NPI in the National Plan and Provider Enumeration System (NPES). Deactivating your NPI will help ensure that your NPI is not used fraudulently by others. If you do not know how to deactivate your NPI, you may contact the NPI Enumerators at (800) 465-3203 for assistance.

New Board Member Stephen L. Schwartz, M.D.

Dr. Schwartz received his medical degree from Temple University School of Medicine in 1961. After graduating, he completed his internship at Queen's Hospital in Honolulu, Hawaii. Dr. Schwartz was a resident in psychiatry at Temple University Medical Center from 1962 to 1965. He then served in the U.S. Naval Reserves at the Paris Island Marine Recruit Depot, S.C., until 1967 at which time he was lieutenant commander and chief of neuropsychiatry at Paris Island.

Dr. Schwartz then returned to Pennsylvania and for the past 23 years has been on the faculty of Jefferson Medical College where he is currently a clinical professor of psychiatry. He has served as president of the Philadelphia County Medical Society, the Pennsylvania Psychiatric Society, the Philadelphia Psychiatric Society and has been a trustee of the Pennsylvania Medical Society and a Pennsylvania delegate to the American Medical Association. He is board certified in psychiatry and is a Distinguished Life Fellow of the American Psychiatric Association.