



Established 1852

Lehigh County Medical Society

The mission of the Lehigh County Medical Society is to encourage physicians and healthcare professionals to have the highest moral and ethical standards; to counsel and censure them when necessary; to serve as a strong and united voice for our Lehigh County physicians, our patients and our community; to promote healthful living and well-being and to advance the highest standards of healthcare and service in our region through education, service and advocacy.

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The DR Bulletin

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FROM YOUR 2015 PRESIDENT, Robert D. Barraco, M.D.



Maintain Physician-Led, Team-Based Care

Courtesy of www.pamedsoc.org

In the coming weeks, Senate Bill 717 — legislation that would allow certified registered nurse practitioners (CRNPs) to practice without a collaborating physician in Pennsylvania — may be scheduled for consideration by the Senate Consumer Protection and Professional Licensure Committee. Sen. Pat Vance (R-Cumberland) is the prime sponsor of the CRNP proposal and a voting member of this important committee.

Please contact your state Senator today and urge them to oppose SB 717. Ask them to contact the Chairman of the Consumer Protection and Professional Licensure Committee, Sen. Robert Tomlinson, to ex-

press their opposition to the proposal.

If your Senator is also one of the 14 that sit on the Consumer Protection and Professional Licensure Committee (committee members are listed below), please call their office directly and voice your opinion. Urge them to vote NO on SB 717 when it comes up for a committee vote.

If SB 717 is ultimately signed into law, a CRNP would be granted a “legislative shortcut” in being able to diagnose and treat patients independently after very limited training, as compared to the 7-11 years and more than 15,000 clinical hours of direct patient care that the state currently requires physicians to complete.

CRNPs are actively asking legislators to support their independent practice. Don't let their voices be the only ones heard.

There is also a similar bill in the House — House Bill 765 — which the Pennsylvania Medical Society (PAMED) strongly opposes. Legislators need to hear from physicians about how this legislation will negatively impact patients. The collaborative agreement is not an arbitrary safeguard; it exists to ensure that patients have direct access to a physician when their care requires a more highly trained professional. Eliminating the collaboration requirement runs contrary to providing effective team-based care and will jeopardize patient safety.

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Manuscripts offered for publication and other correspondence should be sent to 1620 W Highland St, Allentown, PA.

The DR Bulletin is published six times a year bi-monthly, beginning in January, by the Lehigh County Medical Society.

The editorial board reserves the right to reject and/or alter submitted material before publication. All manuscripts and letters should be typed double-spaced on 8 1/2" x 11" stationary.

The opinions expressed in these pages are those of the individual authors and not necessarily those of the Lehigh County Medical Society.

The ad material is for the information and consideration of the reader. It does not necessarily represent an endorsement or recommendation by the Lehigh County Medical Society.

Preserve Your County Medical Society - The Grassroots of Organized Medicine

Superior Court Rules that Failure to Report Suspected Child Abuse Can Result in Civil Damages

Courtesy of www.pamedsoc.org

On Aug. 25, 2015, a Superior Court Panel ruled (3-0) in *K.H. v Kumpur* that physicians who fail to report a reasonable suspicion of child abuse can be found liable for medical professional liability. Pennsylvania's Child Protective Services Law (CPSL) requires physicians to report suspected child abuse when they learn of the abuse through their work as well as in other circumstances. The law imposes stiff criminal penalties for failing to make a required report, but is silent as to whether the child can sue for civil damages.

The Panel did not address the issue of whether the CPSL creates a private cause of action. Instead, it agreed with the plaintiff's position that children may assert a common law cause of action for medical professional liability based upon expert testimony that the standard of care required a report under the circumstances. In this case, the plaintiff provided expert testimony that the standard of care was breached by the child's treating physicians when they failed to make a report.

The Panel also rejected the defense argument that the plaintiff could not establish causation, that is, that the failure to report was a substantial factor in the child sustaining injuries from continued abuse. The defense argued that even if the physicians had made a child abuse report, the plaintiff could not prove that the county Children and Youth Agency (CYA) would have intervened and removed the child from his home and thus prevented the continuing abuse that resulted in his injuries.

In essence, the defense argued that causation was speculative and conjecture. However, the Panel applied legal principles developed in delayed diagnosis cases to conclude that the plaintiff had provided sufficient evidence of causation for the jury to decide whether the failure to report was a substantial factor in the child's injuries. It ruled that the plaintiff could get to the jury based upon testimony that the failure to report "increased the risk of harm" to the child.

At this juncture, there is no final finding that the physicians are liable for the child's injuries. The Panel did not make a factual determination that the physicians were negligent in failing to make a child abuse report or that this failure caused the child's injuries. The Panel simply ruled that the plaintiff had provided sufficient evidence on the breach of the standard of care and causation for a jury to decide whether the physicians must pay damages for the child's injuries.

The defense has the opportunity to ask the full Superior Court to reconsider the decision and to request the Pennsylvania Supreme Court to hear an appeal.

REMEMBER

If you change your business or home address and/or phone or fax number, please notify the Lehigh County Medical Society. Call: 610-437-2288

Volunteer Physician Immunity Legislation Introduced in Pennsylvania House of Representatives

Pennsylvania physicians are dedicated to providing quality health care to their communities, and they want to ensure that every individual in the state has access to the care they need. That's why the Pennsylvania Medical Society (PAMED) and its physician members would like to make certain that concerns about liability protection are not a barrier for physicians and other health care practitioners who wish to provide unpaid volunteer services.

Volunteer physician immunity legislation, House Bill 1483 (HB 1483), has been introduced by Rep. Warren Kampf (R-Chester/Montgomery). This legislation—supported by PAMED—seeks to:

- Increase the availability of health care services delivered by volunteer medical care providers
- Establish a procedure through which actively practicing physicians and other health care practitioners may provide professional services as volunteers in approved clinics in these areas

The bill would provide protection to volunteer providers "at an organized community-based clinic offering health care services to individuals and families who cannot pay for their care, to medical assistance clients, or to residents of medically underserved areas or health-professional shortage areas," per a memorandum from Rep. Kampf.

The current process for employees of eligible health centers to be deemed immune from medical malpractice liability is burdensome, particularly for smaller clinics. It requires health centers to submit an original deeming and annual renewal deeming applications to the U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care (BPHC). Some clinics decide not to apply, which in turn makes it difficult for them to recruit providers who might otherwise wish to donate their time and services at no charge.

ATTENTION Lehigh County Medical Society MEMBERS

Does your Physician Group have a Website?

**Contact the Lehigh County Medical Society
and have your Website linked onto the
Lehigh County Medical Society Website.**

www.lcmedsoc.org

Call: 610-437-2288

PAMED Board Approves Draft Legislation to Address Barriers to Telemedicine in PA

Courtesy of www.pamedsoc.org

With a growing number of services being provided via telemedicine technologies, there is a need for a set of safeguards and standards to support the appropriate coverage of and payment for telemedicine services.

Geography, weather, availability of specialists, transportation, and other factors can create barriers to accessing appropriate health care, including behavioral health care. One way to provide, ensure, or enhance access to care given these barriers is through the appropriate use of technology to allow health care consumers access to qualified health care providers.

On May 19, 2015, the Pennsylvania Medical Society (PAMED) Board of Trustees approved draft legislation from PAMED's Telehealth Task Force, which is aimed at addressing barriers to telemedicine in Pennsylvania and bringing clarity to the expanded use of telemedicine in the commonwealth. Provisions in the draft legislation include:

- **Participation Eligibility** — A variety of health care providers would be eligible to participate in telemedicine/telehealth in addition to physicians. The draft legislation offers as examples the Medicare list of eligible providers. Providers would be required to practice within their scope subject to state licensure laws and regulations.
- **Licensure**—Physicians and other eligible providers who provide telemedicine/telehealth care to patients in Pennsylvania would be required to be licensed in Pennsylvania with limited specific exceptions. An important principle is that the practice of medicine occurs in the state where the patient is located.
- **Professional Liability Coverage**—Professional liability coverage requirements would apply to providers of telemedicine/telehealth.
- **Evaluation and Treatment of the Patient**—A proper provider-patient relationship would need to be established if such action would otherwise be standard acceptable medical practice in the provision of the same service not delivered via telemedicine/telehealth. A list of minimum requirements is outlined to include a virtual face-to-face examination, and, if necessary, incorporates peripherals and diagnostic tests with limited specific exceptions.
- **Informed Consent and Privacy Practices**—Providers would need to comply with informed consent rules as they relate to telemedicine/telehealth as well as follow all privacy practices, such as the Health Insurance Portability and Accountability Act (HIPAA).
- **Medical Records**—Providers would be required to main-

tain a complete medical record of the patient's care in accordance with the standards applicable to traditional face-to-face encounters for documentation, maintenance, and transmission of records.

- **Fraud and Abuse**—Providers would be required to follow all applicable state and federal statutes and regulation for fraud and abuse.
- **Coverage of Telemedicine Services**—Health insurers would be required to provide coverage for the cost of health care services provided through telemedicine/telehealth on the same basis that the insurer would for the provision of the same service provided through in-person consultation or contact.
- **Medicaid Program**—Telemedicine/telehealth coverage would be required to be provided by Medicaid, HealthChoices Physical Health Managed Care Organizations, and HealthChoices Behavioral Health Managed Care Organizations.

Lehigh County Medical Society Welcomes the following New Members

Michael J. Consuelos, MD, MBA (PD)
Hospital Association of Pennsylvania
PO Box 8600
Harrisburg, PA 17105

Sukaina Jaffer, MD (IM)
4057 Longfellow St.
Allentown PA 18104

NOTE

Members of the Lehigh County Medical Society can now view the membership roster (Physician Directory) at our website: www.lcmedsoc.org or request a Membership Roster by calling the Lehigh County Medical Society at: 610-437-2288.

LCMS is looking for members interested in becoming active on the Board of Trustees or on various committees. Please contact our office if you are interested, 610-437-2288 or lcmedsoc@rcn.com

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The vision of the Lehigh County Medical Society is to be a relevant and influential leader in the Pennsylvania Medical Society; to unite our physicians and to empower them to deliver compassionate, ethical and evidence based healthcare of the highest quality and value to our community.

The Lehigh County Medical Society will accomplish its mission and its vision by the following:

Legislative Advocacy within our State Medical Society and our Government
Community Education within the Public Health Arena
Member Education, Collaborative Relationships and Collegiality
Service Activities for our members and our community

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