

STATE BOARD OF Pharmacy

Board Telephone: (717) 783-7156
E-Mail Address: pharmacy@pados.dos.state.pa.us

Spring 1999

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Commonwealth of Pennsylvania

Tom Ridge
Governor

Kim Pizzigrilli
Acting Secretary of the Commonwealth

Dorothy Childress
Commissioner
Bureau of Professional
and Occupational Affairs

For more information, visit us through the
Pennsylvania homepage at www.state.pa.us
or visit the Department of State directly at
www.dos.state.pa.us

Message from the Chair

Paula L. Castor, R.Ph., M.H.A. FASHP

We present this newsletter on behalf of the State Board of Pharmacy. The board members have been diligent over the past year; and in 1998, major revisions to the board's regulations were finalized. A recap of the changes in regulation is included on page 4 of this publication. Anyone interested in learning how a regulation is adopted can turn to page 5.

I would also like to remind you that board meetings are open to the public, and we welcome any interested parties to attend. If you wish to address the board during a meeting, you should contact the board office in writing with your topic and required time allotment.

In 1998, the Department of State has expanded its website to include links to each professional licensing board, including the State Board of Pharmacy. The site will be updated regularly to provide instant access to licensure information and board activities. Further, if you have Internet access, you can now email questions, comments or suggestions directly to the State Board of Pharmacy at the address above.

Our board members are dedicated to protecting public health, safety and welfare through licensing and regulating professionals within the field.

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Important Notice Regarding Public Access to Information

by Gerard M. Mackarevich, Deputy Chief Counsel, Pennsylvania Department of State

The Bureau of Professional and Occupational Affairs is sensitive to its licensees' concerns about personal privacy. However, the Pennsylvania Right-to-Know Act, 65 P.S. § 66.1, mandates release of information contained in a "public record" stored by that agency if a member of the public requests it.

The bureau wants you to know that it will take all reasonable steps to safeguard personal information contained in your licensure records. We realize that many of you use your home address on the licensure records maintained by the bureau. However, given the uncertainty over what the Right-to Know Act requires, neither the bureau nor the board that issues your

license can guarantee the confidentiality of the address shown on your licensing record. Therefore, we recommend that, if you have a personal security concern, you might want to consider what many of our licensees have already done: Use a business address or box number as the official address on their licensure records.

Mandate to Report Diversion

Section 7(d.8) of the Pharmacy Act provides: "Any hospital or health care facility, peer or colleague who has substantial evidence that a professional [1] has an active addictive disease for which the professional is not receiving treatment, [2] is diverting a controlled substance or [3] is mentally or physically incompetent to carry out the duties of his or her license or certificate shall make or cause to be made a report to the board..." Anyone who makes a report in good faith cannot be held liable in any way as a result of the report; but, failure to provide a report within a reasonable time of knowing of the impairment or diversion will subject the person or facility to a fine of up to \$1,000.

The board is frequently faced with the situation where an employer has dismissed a pharmacist for having diverted drugs, but failed to report the matter. When this happens, the board cannot take immediate action to protect the public from the offending pharmacist. For this reason, the board is stepping up its enforcement activities to fine those persons and facilities who fail to report.

Name and/or Address Change Reminder

To ensure receipt of a renewal notice or important information from the board, licensees must contact the board office with any changes in name or address. Name changes require a copy of a court order, marriage certificate, divorce decree or other official document. Please send changes to:

State Board of Pharmacy
P.O. Box 2649
Harrisburg, PA 17105-2649

The “Citation” Program (Act 48 Update)

In an effort to streamline the disciplinary process, the Pennsylvania legislature authorized the Department of State’s Bureau of Professional and Occupational Affairs (BPOA) to develop a citation program and schedule of civil penalties for various minor infractions. The implementation of Act 48 of 1993 was completed under the direction of the Secretary of the Commonwealth and BPOA Commissioner Dorothy Childress.

Under the program, the department’s field personnel can issue citations and impose civil penalties in accordance with adopted schedules for several of the boards and commissions within the bureau.

The implementation of the citation program has developed into one of the major achievements of the Ridge Administration within the Department of State. After three years of implementation, the program set a new record in 1998, generating a third of the disciplinary penalties imposed by BPOA boards and commissions, but at a fraction of the operational expense. The number of citation sanctions imposed in 1998 (567) was a 50% increase over that from 1997. Additionally, a total of \$221,200 in civil penalties were assessed through citations. This represents an almost 49 percent increase over 1997. In approximately 55 percent of cases, citations were paid by the respondent without requesting a hearing. In those cases that went

to a hearing (approximately 20 percent), the adjudication was issued in a fraction of the time it would normally take to come to closure under standard procedures for formal disciplinary actions. As was the case in the previous year, the time saved on these minor cases was put to more effective use on the more serious charges.

The program has been a great benefit to the public because it allows departmental inspectors, investigators and prosecutorial staff to resolve minor infractions quickly, allowing them to concentrate on allegations of serious misconduct.

More importantly, the length of time between issuance of a citation and adjudication of a fine is estimated to be about two months as compared to over a year or more under conventional procedures. Even though the process is expedited, due process is still guaranteed to those issued a citation.

In addition to the State Board of Pharmacy, the following boards and commissions benefitted from the citation process in 1998: Barber; Cosmetology; Funeral; Vehicle Manufacturers, Dealers and Salepersons; and the Real Estate Commission.

Due to the program’s resounding success, the following boards have recently begun implementation: Architects; Engineers, Land Surveyors and Geologists; Dentistry; Accountancy; and Auctioneer Examiners.

Board Members

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Hughesville, Lycoming County

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Harrisburg, Dauphin County

Paul J. Miller, D.Ed.
Aston, Delaware County

Michael A. Podgurski, R.Ph.
Mechanicsburg, Cumberland County

Ralph E. Progar, R.Ph.
Sewickley, Allegheny County

*Representative from
Bureau of Consumer Protection
Office of Attorney General*

Dorothy Childress, Commissioner
*Bureau of Professional and
Occupational Affairs*

Board Staff:

April L. McClaine, Esq.
Counsel

Meet our Newest Board Member

Paul J. Miller, a public board member since February 1998, earned a bachelor's degree in agricultural education in 1953; a master's in elementary education from Temple University in 1961; and a doctorate in elementary education from Temple University in 1986.

Prior to his retirement, Dr. Miller had been involved in education since 1956 as an elementary and secondary teacher; a principal; a supervisor; a curriculum coordinator; an interim superintendent; and a director of instructional services. Prior to teaching, he served with the U.S. Marine Corps. In 1982, Miller was vice president/director of field operations for the United Private Academic Schools Association.

He is currently a member of the Pennsylvania Association of School Retirees, serving as chapter president, state board director, state committee chairman and state board parliamentarian. Dr. Miller is also an executive board member for Temple University's Phi Delta Kappa.



Paul J. Miller, D.Ed.

Regulation Update

On September 5, 1998, major revisions to the board's regulations were finalized. The regulatory amendments generally revise, clarify and update various provisions of the board's regulations to reflect current pharmacy practice while maintaining health and safety standards in the delivery of pharmacy services to Pennsylvanians.

Specifically, amendments define a "pharmacy technician" and enlarge the scope of technician utilization. They define a "satellite pharmacy" and clarify when institutional providers will be required to obtain separate permits for pharmacies in the system. Amendments further clarify and update provisions pertaining to sanitary standards, construction and equipment requirements and standards of practice. Requirements for pharmacy internships and licensure by reciprocity are also streamlined.

The Department of State Creates Web Pages for Licensing Boards and Commissions

In November 1998 Acting Secretary of the Commonwealth Kim Pizingrilli announced a new online resource to make professional licensure information more accessible to the public. "The Ridge Administration believes the Internet is a valuable tool to make information more accessible to Pennsylvanians," Pizingrilli said. "Over the last three years, the Department of State has undergone an extensive modernization. Through the use of new technology like the Internet, we are becoming more responsive and more effective in meeting the needs of the public."

The Department of State has expanded its website to include professional licensure information for 27 boards and commissions under its jurisdiction. The website is available through the Pennsylvania homepage at www.state.pa.us or directly through the Department of State's website at www.dos.state.pa.us.

Consumers and licensed professionals who visit the site now will be able to access licensure laws, and application and exam information; to request copies of regulations; to review meeting dates; and to download com-

plaint forms. The new site also marks the first step in the department's efforts to make professional licensure records and board information available to the public via the Internet.

More than 800,000 professionals are licensed and regulated by the boards and commissions under the department's jurisdiction. By improving access to licensure and board information, the department seeks to improve the level of service offered to consumers and professionals who use this information every day.

As part of the Ridge Administration's efforts to improve customer service and provide greater access to public information, the Department of State revised its Internet website to provide better service and to improve efficiency 24 hours a day, seven days a week. The site allows for instant and convenient access to election information and voter registration statistics; tips on charitable giving; fees and filing requirements for incorporating in Pennsylvania; and basic information about the department. In 1997, Pennsylvania became one of the first states in the nation to tabulate and post election returns to the Internet on election night; and in April 1998, the department began posting campaign-finance reports for statewide candidates on the Internet — fulfilling Gov. Ridge's pledge to provide greater access to campaign-finance information.

The Pennsylvania Homepage, www.state.pa.us, recently was selected as the best state website in the country by *Government Technology* magazine.



How a Regulation is Adopted

by Joyce McKeever, Deputy Chief Counsel, Pennsylvania Department of State

Each year, licensing boards and commissions in the bureau propose and adopt numerous regulations and amendments to current regulations. Some regulations, such as fees for examinations and renewals, are required by statute. In other instances, boards make changes to long-standing policy or wish to enact new standards of professional conduct for licensees.

Whether a new regulation is necessary, or changes to old regulations are made, all proposed rulemaking of the boards must be adopted under the law and procedures spelled out in the Commonwealth Documents Law, the Commonwealth Attorneys Act and the Regulatory Review Act.

The Commonwealth Documents Law requires the board or commission that wishes to enact a new rule to publish a proposal in the *Pennsylvania Bulletin*, the official publication of important documents for all Commonwealth agencies. The proposal announces the intention of the agency and explains to the public why the regulation is necessary or benefits the public. The public can comment or object to the board's proposal for a period of thirty days after publication. Thereafter, the board can propose a final rulemaking, which is also published in the *Pennsylvania Bulletin*.

The Regulatory Review Act requires the board or commission to submit the proposal to the House and Senate standing committees which have oversight over all licensing boards in the

bureau and the Independent Regulatory Review Commission (IRRC). The board proposal is submitted to the regulatory reviewers at the time it is published in the *Pennsylvania Bulletin*. The public comments which the board or commission receives are also sent to the committees and the IRRC. In turn, the committees or IRRC submit comments to the board and/or the commission.

Licensing boards and commissions must consider public, legislative and IRRC comments when a final regulation is proposed. An agency has two years from the close of the public comment period to submit a final-form regulation. The final-form regulation is again submitted to the state House and Senate standing committees and to IRRC. The committees and IRRC review the board's final rulemaking. That review results in an action to either approve or disapprove the regulation. The committees have 20 days within which to act to disapprove a regulation. When they do so, IRRC is notified. Thereafter, IRRC meets to consider the final rulemaking. IRRC may disapprove or approve the regulation, irrespective of the action taken by the legislative committees. If IRRC approves the regulation, publication of the final regulation is authorized.

If IRRC disapproves a proposed final regulation, disapproval bars publication in the *Pennsylvania Bulletin*. The board or commission then has a seven-day period in which it may notify the state House and Senate com-

mittees and IRRC that it intends to proceed with final rulemaking, notwithstanding the disapproval. If a board or commission decides to resubmit final rulemaking, it may do so within 40 days of IRRC's original disapproval.

The licensing board or commission, as with any state agency, can submit the regulation without any changes or it can make revisions to its proposal and submit a revised regulation which is intended to address the concerns raised in the disapproval. When no changes are made to final form regulation, the committees have 14 days to report a concurrent resolution. A resolution would bar publication unless the Governor successfully (without override) vetoes the resolution.

If a board or commission decides to revise the final rulemaking, the revisions are considered again by the House and Senate committees and IRRC. If both approve the changes, publication of the final regulation is then authorized. If either of the committees or IRRC disapprove the revised regulation, either of the legislative committees may within 14 days report a concurrent resolution barring publication. If the resolution is not reported, the House or Senate fails to adopt, or the Governor successfully vetoes the resolution, the regulation may be published in the *Pennsylvania Bulletin* as final.

Under the Commonwealth Attorneys Act, the Attorney General must approve all regulations before they are final. Once a regulation is published, it becomes law.

Future Newsletter Publications

If there is an issue you would like to see addressed in the Pennsylvania State Board of Pharmacy Newsletter, please submit it in writing to:

State Board of Pharmacy
 "Newsletter"
 P.O. Box 2649
 Harrisburg, PA 17105-2649

Jeffrey J. Wood, Esquire, was appointed Chief Counsel to the PA Department of Aging by Gov. Tom Ridge in April 1995. Wood assigns and supervises the Aging legal work, advises Aging Secretary Richard Browdie on matters affecting older Pennsylvanians, and represents Aging in administrative forums, county courts and state appellate courts on elder law issues including contracts, regulations, legislation, constitutional challenges, health care matters, and particularly with the Pharmaceutical Assistance Contract for the Elderly (PACE) Program and older adult protective service intervention in cases of abuse, exploitation and fraud.

Reporting Elder Abuse: “Voluntary or Mandatory”

Commentary by Jeffrey J. Wood, Esquire

Our senior citizens may be one of our most valuable resources, but they can also become our most vulnerable citizens. Sickness, loneliness, or mere “old age” can leave an older adult vulnerable to abuse. **The purpose of this Commentary is to provide general information, not legal advice, about the issue of ‘reporting elder abuse’.**

The Pennsylvania Department of Aging (PDA) is formally charged by the Older Americans Act (42 U.S.C.A. § 3025(a)) and the Pennsylvania General Assembly (71 P.S. § 581-1) with being an advocate for the interests of older Pennsylvanians at all levels of government. PDA oversees many services and benefits to older people — most provided through the 52 statewide Area Agencies on Aging (AAAs), and works with the Governor’s Office and the General Assembly on legislation benefiting older persons. PDA has consistently pursued its role as advocate inside and outside state government through planning, training and research as well as the administration of federal and state funds for elderly programs through AAAs. PDA and AAAs are both leaders of, and partners in, what is known as the state and local Aging Services Network.

PDA and AAAs through The Older Adults Protective Services Act (35 P.S. § 10225.101 *et seq.*) have assisted thousands of older Pennsylvanians to overcome abusive situations or protect them from potential abandonment, abuse, financial exploitation or neglect, including self-neglect. The Act provides that any person having reasonable cause to believe that an older adult is in need of protective services may report such information to the AAA (35 P.S. § 10225.302(a)). An older adult is defined by the Act as a person in our Commonwealth who is age 60 or over (35 P.S. § 10225.103; see 71 P.S. § 581-2).

The Act, which was effective July 1988¹, enables anybody to voluntarily report suspected abandonment, abuse, financial exploitation or neglect. Abuse is defined in the Act as: the infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish; or as the willful deprivation of necessary goods or services to maintain physical or mental health; or, as any sexual act, harassment or placing one in reasonable fear of serious bodily injury (35 P.S. § 10225.103; see 23 Pa. C.S.A. § 6102 and 18 Pa. C.S.A. § 2301). Consequently, **any person** who has personal knowledge that abuse has been, or is being, perpetrated upon an older adult, may **voluntarily** report such to the AAA.

Notwithstanding, the Act’s voluntary reporting directive, the Act has been amended by Act 13-97, effective December 1997, mandating any employee or administrator of a facility (facility being defined in the Act) who has reasonable cause to suspect that an individual receiving care, services or treatment from a facility is a victim of abuse, shall immediately make a report of such abuse to the AAA (35 P.S. § 10225.701 (a)(1)). Further, any employee or an administrator who has reasonable cause to suspect that such individual is the victim of sexual abuse, serious physical injury or serious bodily injury or that a death is suspicious shall, in addition to contacting the AAA and PDA, immediately contact law enforcement officials to make a report (35 P.S. § 10225.701 (b)(1)). Consequently, **any employee** or an administrator who has knowledge that abuse has been, or is being, perpetrated upon an older adult, is **mandatorily required** to report, depending upon the severity of the abuse, to the AAA, PDA and law enforcement.

In addition to The Older Adults Protective Services Act voluntary and mandatory elder abuse reporting declarations, our Crimes Code (18 Pa.

C.S.A. § 101) mandates reporting criminal acts or abuse for certain Commonwealth Agencies and for certain medical personnel, when such Agencies and personnel are engaged in the performance of their duties. That is, in specific circumstances, the law requires reporting:

The Crimes Code, as amended by Act 28-95, effective September 1995, requires any member or agent of the Commonwealth Agencies of PDA, Department of Health or Department of Public Welfare, when in the course of conducting the performance of regulatory or investigative duties, and having reasonable cause to believe that an individual receiving care, services or treatment has suffered bodily injury or been unlawfully restrained, shall immediately report such criminal act abuse to the local law enforcement agency or to the Office of Attorney General (18 Pa. C.S.A. § 2713(c)). That is, where personnel or agents of PDA, Department of Health or Department of Public Welfare have cause to believe that the criminal act of omission defined as “neglect of care-dependent person” has been, or is being, perpetrated, it is mandatory that such Commonwealth Agency personnel report to law enforcement or the Attorney General. Consequently, any **employee or agent** of PDA, Health or Public Welfare **must report** suspected neglect of care-dependent persons.

Further, the Crimes Code, Act 334-72, effective June 1973, directs that a physician, intern or resident, or any person conducting, managing or in charge of any hospital or pharmacy, or in charge of any ward or part of a hospital, to whom shall come or be brought any person suffering from any wound or other injury inflicted, by his own act or by the act of another, by means of a weapon or has injuries inflicted in violation of any penal law of this Commonwealth (18 Pa. C.S.A. § 5106(a)), shall report such criminal act injuries to the local law en-

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Reporting Elder Abuse *(continued from page 6)*

forcement agency or to the State Police. Such is **mandatory reporting for medical personnel** when injuries sustained are the result of suspected criminal activity.

PDA continues its efforts to raise public and professional awareness of elder abuse and remains committed to intervening in the lives of our older Pennsylvanians in appropriate cases while avoiding unnecessary infringement of their civil liberties. At the same time, PDA pro-

vides services and legal protection to victims and confidentiality for those who report cases of abuse. PDA is looking to the future, planning how to best meet the needs of Pennsylvania's older citizens and their communities. As we head into the 21st century, our emphasis is on health care and disease prevention, and our mission continues to be to enhance the lives of communities, families and older Pennsylvanians...we need you to carry on this mission. Elder abuse happens

everywhere — across the country, across the state and across the street. But you can do something about it. But first, you must open your eyes to the issue.

¹ The Act, initially enacted as Act 79-87, but was amended and Sections renumbered by Act 169-96, effective March 1997. Further, the Act was amended by Act 169-96 to add Chapter 5, effective July 1998, relating to criminal background checks for personnel providing care to older adults; however, such discussion is outside the scope of this *Commentary*.

Prospective Drug Review and Patient Counseling

Section 27.19 of the regulations of the State Board of Pharmacy at 49 Pa. Code § 27.19 provides:

(a) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Caregiver - a person who has assumed responsibility for the care of a patient. The following will be presumed to be caregivers: the spouse, parent, adult child, guardian, legal representative or nurse of the patient.

Mail order pharmacy - a pharmacy with the primary patient population consisting of patients who send their prescriptions to the pharmacy through the mail and receive non-proprietary drugs and devices from the pharmacy through the mail, common carrier or express courier service.

PDR - Prospective Drug Review

(b) General. This section requires a pharmacist to perform a PDR before filling, delivering or sending a new retail or outpatient prescription. The PDR requires that the pharmacist review a profile of the patient maintained in the pharmacy in accordance with subsection (g) prior to dispensing the medication to the patient or caregiver and that the pharmacist or designee of the pharmacist make an offer to counsel the patient or caregiver.

(c) Purpose. The purpose of the PDR is to help assure that a drug dispensed under a prescription is not likely to have an adverse medical result. The PDR accomplishes this by attempting to identify potential drug therapy problems

that might result from therapeutic duplication, drug-drug interactions, incorrect dosage, incorrect duration of drug treatment, drug-allergy interactions and clinical abuse or misuse.

(d) Scope.

(1) The PDR is required for retail or outpatient prescriptions. The PRD does not extend to the following:

- (i) An order for a drug for an inpatient of an institution, as the term "institution" is defined in this chapter.
- (ii) A drug dispensed in an emergency room.
- (iii) A drug dispensed by a medical practitioner.
- (iv) A drug dispensed by a pharmacist to a medical practitioner which the practitioner will administer to a patient.

(2) The following are examples of situations in which a PDR is required:

- (i) A patient visits a physician in the physician's office and receives a prescription. The patient has the prescription filled in a retail pharmacy.
- (ii) A pharmacist fills a prescription for a patient who lives in a personal care home.
- (iii) A pharmacist in a hospital pharmacy fills an outpatient prescription for a hospital employee.
- (iv) A patient is treated on a non-emergency basis in an outpatient clinic of a hospital and is given a prescription. The patient has the prescription filled either in the hospital pharmacy or in a retail pharmacy.

(3) The following are examples of situations in which a PDR is not required.

- (i) A pharmacist fills a prescription for a patient in a nursing home.
- (ii) A pharmacist in a hospital dispenses a drug which will be administered to a patient in the hospital.
- (iii) A physician dispenses a drug to a patient being treated in the emergency room.
- (iv) A pharmacist dispenses a radiopharmaceutical to a physician who will administer it to a patient.

(e) The offer to counsel.

- (1) An offer to counsel shall be made to each patient or caregiver when the pharmacist fills, delivers or sends a new retail or outpatient prescription.
- (2) The pharmacist or designee of the pharmacist shall orally make the offer in person if a patient or caregiver comes to the pharmacy. If the pharmacist in the exercise of professional judgment in the interest of a patient believes that an oral offer would be less effective than a written offer, the pharmacist may substitute a written offer. The following are examples of situations in which a pharmacist might substitute a written offer:
 - (i) The patient or caregiver is hearing impaired.
 - (ii) The patient or caregiver is not an English speaker.
- (3) If neither the patient nor caregiver comes to the pharmacy, the offer to counsel shall be made in one of the following ways:

continued on next page...

Prospective Drug Review and Patient Counseling...continued

- (i) The pharmacist or designee may telephone the patient or caregiver.
 - (ii) The pharmacy delivery person may orally make the offer to the patient or caregiver.
 - (iii) The pharmacist may send a written offer to counsel together with the filled prescription which is delivered or sent to the patient.
- (4) A written offer to counsel shall include the telephone number of the pharmacy.
- (5) A pharmacy shall provide toll-free telephone service if its primary patient population is beyond the local or toll-free exchange.
- (6) A mail order pharmacy shall make the offer to counsel either by telephone or by sending a written offer together with the filled prescription. The written offer shall include a toll-free telephone number of the pharmacy which a patient or caregiver may use to obtain counseling.
- (7) The obligation to make an offer to counsel will be fulfilled by making one offer in accordance with this subsection.
- (f) The counseling.**
- (1) Only a pharmacy may counsel.
 - (2) If a patient or caregiver who comes to the pharmacy indicates that he wants counseling, the pharmacist shall counsel the patient or caregiver in person, or at the discretion of the patient or caregiver, by telephone.
 - (3) If the filled prescription is sent or delivered to the patient or caregiver, counseling shall be by telephone.
 - (4) The following are examples of matters which a pharmacist in the exercise of professional judgment might deem significant and discuss with the patient or caregiver:
 - (i) The name and description of the medication.
 - (ii) The route of administration, dosage form and duration of drug therapy.
 - (iii) Special directions and precautions for preparation, administration and use by the patient.
- (iv) Common severe side effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.
 - (v) Techniques for self-monitoring drug therapy.
 - (vi) Proper storage.
 - (vii) Prescription refill information.
 - (viii) Action to be taken in the event of a missed dose.
- (5) If a pharmacist discovers a specific problem with a medication during the course of a PDR, the pharmacist shall intervene to attempt to resolve the problem.
- (g) The patient profile.**
- (1) The pharmacist or designee of the pharmacist shall make a reasonable effort to obtain, record and maintain the following information about each patient:
 - (i) The name, address, telephone number, date of birth (or age) and gender.
 - (ii) Individual history, if significant, including known allergies and drug reactions, and a list of medications and relevant devices, as provided by the patient or caregiver.
 - (iii) Pharmacist comments relative to the individual's drug therapy.
 - (2) The patient profile may be maintained electronically or manually.
 - (3) The pharmacist or designee of the pharmacist shall begin a patient profile when the pharmacist fills a prescription for a new patient or for a current patient for whom a profile had not previously been maintained.
 - (4) The patient profile shall be maintained for at least two years after the last entry.
 - (5) The board will consider a single request for information for a patient profile made to a patient or caregiver a reasonable effort to obtain the information outlined in this subsection.
- (h) Refusal to accept counseling or to provide information.**
- (1) A pharmacist is not required to provide counseling or obtain information for the patient profile if the patient or caregiver refuses the offer to counsel or refuses to divulge information for the patient profile. If a patient or caregiver fails to respond to an offer to counsel or a request for information, the failure to respond will be deemed a refusal.
 - (2) The pharmacist or designee shall document the refusal of a patient or caregiver to accept counseling or provide information. The documentation shall include the name or initials of the pharmacist or designee noting the refusal. The following kinds of documentation are acceptable:
 - (i) A notation made by the pharmacist or designee on the prescription or patient profile or the electronic records of the pharmacy.
 - (ii) A writing signed by the patient or caregiver.
- (i) Confidentiality.**
- (1) Information gained by a pharmacist, pharmacy or employee of a pharmacy about a patient under this section shall be regarded as confidential. The information shall be maintained in accordance with section 8(10) of the act (63 P.S. §390-8(10)).
 - (2) The pharmacist or pharmacy may reveal the information if one of the following circumstances occurs:
 - (i) The patient consents to the disclosure.
 - (ii) The board or its authorized agents require the information for any proceeding under the act.
 - (iii) State or federal law or regulations require or authorize the disclosure.
 - (iv) A court orders the disclosure.

Disciplinary Actions

The following is a chronological listing of formal disciplinary or corrective measures taken by the board from February 18, 1997 through June 25, 1998. Each entry includes the name of the respondent; the respondent's license number; the respondent's city; the sanction imposed; a brief description of the basis for the disciplinary or corrective measure; the effective date of the disciplinary or corrective measure; and whether the disciplinary or corrective measure was taken pursuant to an Adjudication and Order (A&O); or Consent Agreement and Order (C&O) or Automatic Suspension (AS).

Every effort has been made to ensure that the following information is correct. However, this information should not be relied upon without verification from the board office. It should be noted that the names of persons listed below may be similar to the names of persons who have not had disciplinary or corrective measures taken against them.

Please contact the board to verify these actions and their effective dates. Official confirmation of the current status of a license or registration can be obtained by writing to: State Board of Pharmacy, P.O. Box 2649, Harrisburg, PA 17105-2649.

RAYMOND A. LODATO, license no. **RP-024309-L**, of Marlton, NJ, had his license to practice pharmacy reinstated, subject to three years' probation retroactive to Dec. 17, 1996, requiring him to practice in a supervised capacity. (2-18-97) (A&O)

KEITH L. WIDMER, license no. **RP-036191-L**, of York, had his license to practice pharmacy reinstated, subject to two years' probation retroactive to Dec. 17, 1996, involving the monitoring of his drug and alcohol recovery. (2-18-97) (A&O)

GEORGE A BOTROS, license no. **RP-036320-R**, of Manheim, Lancaster County, was assessed a \$300 civil penalty for failing to submit plans for alteration and description of safety precautions to the board at least 90 days before beginning alterations on his pharmacy. (2-19-97) (C&O)

TRUE CARE PHARMACY, permit no. **PP-412412-L**, of Myerstown, Lebanon County, was assessed a \$300 civil penalty for failing to submit plans for alteration and description of safety precautions to the board at least 90 days before beginning alterations to the pharmacy. (2-19-97) (C&O)

RITE AID PHARMACY, permit no. **PP-413522-L**, of Waynesboro, Franklin County, was assessed a \$500 civil penalty for operating without a pharmacy manager and failing to notify the board within fifteen days of a change in pharmacist manager. (3-19-97) (C&O)

FAY'S CORNER DRUG #550, permit no. **PP-412970-L**, of Easton, Northampton County, was assessed a \$1,000 civil penalty for selling or delivering, holding, offering for sale or possessing a drug that was misbranded. (3-19-97) (C&O)

ERIN A. (LAIBINIS) RAINERI, license no. **RP-040645-L**, of Bethlehem, Northampton County, was assessed a \$1,000 civil penalty for compounding, dispensing or selling a misbranded drug. (3-19-97) (C&O)

THOMAS A. CORWIN, license no. **RP-033261-T**, of Saylorburg, Monroe County, was assessed a \$1,000 civil penalty for selling, distributing or dispensing a misbranded drug. (3-19-97) (C&O)

DAVID PAUL REPOTSKI, license no. **RP-022480-L**, of West Nanticoke, Luzerne County, was assessed a \$500 civil penalty for departing from or failing to conform to the standards of acceptable and prevailing pharmacy practice. (4-15-97) (C&O)

JEFFREY THOMAS PIANTA, license no. **RP-037619-L**, of Erie, was assessed a \$1,000 civil penalty and was suspended for one year, stayed in favor of probation subject to certain terms and conditions, for procuring a drug by fraud, deceit, misrepresentation or subterfuge. (4-15-97) (C&O)

LEONARD MARK EVANS, license no. **RP-031158-L**, of Philadelphia, was automatically suspended as a result of his conviction on felony drug charges. (4-16-97) (AS)

SOU KWEI ARNDT, license no. **RP-036804-L**, of Greensburg, Westmoreland County, was automatically suspended as a result of a conviction on felony drug charges. (4-16-97) (A&O)

JANICE AILENE NOELKER, a/k/a **JANICE NOELKER UGLOW**, license no. **RP-031887-L**, of Chambersburg, Franklin County, was automatically suspended as a result of her conviction on a felony drug charge. (4-22-97) (A&O)

DEAN MARRAZZO, license no. **RP-034402-L**, of Blakely, Lackawanna County, was suspended for five years based upon his unfitness to practice pharmacy because of substance impairment. (5-13-97) (C&O)

CVS PHARMACY #2115, permit no. **PP-415226-L**, of Hellertown, Northampton County, was assessed a \$300 civil penalty for advertising a pharmacy before being granted a permit by the board. (5-13-97) (C&O)

RAYMOND PRICE, license no. **RP-024684-L**, of Wynnewood, Montgomery County, was assessed a \$350 civil penalty for failing to submit plans for alteration and description of safety precautions to the board at least 90 days before beginning alterations to his pharmacy. (5-13-97) (C&O)

RITE AID PHARMACY #1566, permit no. **PP-411404-L**, of Sharon Hill, Delaware County, was assessed a \$350 civil penalty for failing to submit plans for alteration and description of safety precautions to the board at least 90 days before beginning alterations to the pharmacy. (5-13-97) (C&O)

EDWARD M. MALONEY and MALONEY'S PHARMACY, INC., license no. **RP-025265-L** and permit no. **PP-413265-L**, of Coraopolis, Allegheny County, had the pharmacy permit revoked and was assessed a \$300 civil penalty for failing to notify the board of the closure of the pharmacy, return to the board the pharmacy permit and inform the board of the disposition of the prescription files and caution legend drugs. (5-13-97) (C&O)

VIKAS GUPTA, license no. **RP-036710-T**, of Schaumburg, IL, was assessed a \$100 civil penalty for having had disciplinary action taken against his license to practice pharmacy in another state. (6-17-97) (C&O)

JANEL E. STOMBERGER, license no. **RP-039050-L**, of York, was assessed a \$1,000 civil penalty for selling, distributing or dispensing a misbranded drug as defined in the Drug Act. (6-17-97) (C&O)

THRIFT DRUG #8670, permit no. **PP-411929-L**, of Shrewsbury, York County, was assessed a \$1,000 civil penalty for selling or delivering, holding, offering for sale or possessing a drug that was misbranded. (6-17-97) (C&O)

JUDITH MARIE (DENSMORE) OLIMPO, license no. **RP-038745-L**, of Horsham, Montgomery County, was suspended for two years, stayed in favor of probation subject to terms and conditions and assessed a \$500 civil penalty for obtaining controlled substances by misrepresentation, fraud, forgery, deception or subterfuge. (7-15-97) (C&O)

WALMART PHARMACY #10-1607, permit no. **PP-414454-L**, of Lewistown, Mifflin County, was assessed a \$300 civil penalty for failing to submit plans for alterations and description of safety precautions to the board at least 90 days before beginning alterations to the pharmacy. (7-15-97) (C&O)

KEITH N. GILBERT, license no. **RP-039517-L**, of Lewistown, Mifflin County, was assessed a \$300 civil penalty for failing to submit plans for alterations and description of safety precautions to the board at least 90 days before beginning alterations on his pharmacy. (7-15-97) (C&O)

RITE AID PHARMACY #1628, permit no. **PP-413671-L**, of Derry, Westmoreland County, was assessed a \$1,000 civil penalty for failing to notify the board of impending substantial alterations to the pharmacy and planned precautions to protect public health and safety during construction. (7-15-97) (A&O)

JOHN LUTSON, license no. **RP-037788-R**, of Paragould, AZ, was reprimanded and restricted from engaging in the active practice of pharmacy in Pennsylvania until he has complied with Florida disciplinary orders. The action was taken as a result of discipline taken against his Florida pharmacy license by that state. (7-15-97) (A&O)

Disciplinary Actions *(continued)*

RICHARD DAVID SWEET, license no. **RP-025758-L**, of Parma, OH, was suspended for five years retroactive to March 19, 1997, as a result of a violation of his probation. (7-30-97) (A&O)

AUDLEY D. STEVENS JR., license no. **RP-023454-L**, of Conneautville, Crawford County, was suspended for at least three years, for having pled guilty in the disposition of felony charges in connection with the practice of pharmacy before a formal court of record. (8-19-97) (C&O)

THEODORE R. MURR, license no. **RP-035426-L**, of Malvern, Chester County, was indefinitely suspended, stayed in favor of probation, for having had his license suspended by another state. (8-19-97) (C&O)

NICHOLAS J. DePALMA, license no. **RP-038948-L**, of Philadelphia, was indefinitely suspended for having had disciplinary action taken against his license by another state. (8-19-97) (C&O)

STEVEN RAY NOLL, license no. **RP-028137-L**, of Lewisburg, Union County, was suspended, stayed in favor of probation subject to terms and conditions, for having had disciplinary action taken against his license by another state. (8-19-97) (C&O)

JAMES EDWARD CLAUSIUS, license no. **RP-027991-L**, of Denver, CO was revoked, based upon Clausius' conviction of drug and theft charges and disciplinary action in CO. (8-19-97) (A&O)

ELIZABETH A. LAVIGNE, license no. **RP-040485-R**, of Dalton, Lackawanna County, was assessed a \$500 civil penalty for having had disciplinary action taken against her license by another state. (8-20-97) (C&O)

GILBERT H. HATHAWAY JR, license no. **RP-026930-L**, of Ridge, NY, was assessed a \$100 civil penalty for having had disciplinary action taken against his license by another state. (9-16-97) (C&O)

ARTHUR LLOYD KOPMAN, license no. **RP-026650-L**, of Chester, Delaware County, was reprimanded and assessed a \$200 civil penalty for having had disciplinary action taken against his license by another state. (10-21-97) (C&O)

MARTIN DRUGS, INC., permit no. **PP-413696-L**, of Concordville, Delaware County, was assessed a \$500 civil penalty for failing to notify the board of a change in pharmacist manager within the required 15 days. (10-21-97) (C&O)

WALMART PHARMACY #10-1537, permit no. **PP-414405-L**, of Gettysburg, Adams County, was assessed an \$800 civil penalty for dispensing a misbranded drug. (10-21-97) (C&O)

KERA JOAN PROVOST, license no. **RP-036363-R**, of Fairfield, Adams County, was assessed an \$800 civil penalty for departure from, or failing to conform to, the standards of acceptable and prevailing pharmacy practice. (10-21-97) (C&O)

EDWARD LANDREY, license no. **RP-042250-R**, of Vestal, NY was suspended for two years, stayed in favor of probation, and assessed a \$500 civil penalty for disciplinary action taken against his license in NH. (11-25-97) (C&O)

HARRIS BOGDNOFF, license no. **RP-028375-L**, of Doylestown, Bucks County, was assessed a \$500 civil penalty for departure from, or failure to conform to, the standards of acceptable and prevailing pharmacy practice. (11-18-97) (C&O)

HARRIS PHARMACY, INC., permit no. **PP-412480-L**, of Doylestown, Bucks County, was assessed a \$500 civil penalty for selling or delivering, holding, offering for sale or possessing a drug that was misbranded. (11-18-97) (C&O)

JOSEPH A. AMENDOLARO, license no. **RP-033467-L**, of Easton, Northampton County, was automatically suspended as the result of his conviction of a misdemeanor under the PA Drug Act. (2-5-98) (A&O)

ZENO JAMES FRITZ, license no. **RP-028968-L**, of Pittsburgh, Allegheny County, was revoked based upon Fritz's guilty plea to federal narcotics conspiracy felonies. (12-16-97) (A&O)

PAUL JOSEPH DEUTSCH, license no. **RP-026321-L**, of Bath, Northampton County, was suspended for two years, stayed in favor of probation, and assessed a \$1,000 civil penalty for having pled guilty to a crime involving moral turpitude. (3-17-98) (C&O)

JOHN J. PERRY, license no. **RP-040601-R**, of Pittsburgh, Allegheny County, was automatically suspended as a result of his conviction on a felony drug charge. (3-26-98) (A&O)

FRANK GOLDMAN, license no. **RP-024592-L**, of Johnstown, Cambria County, was reprimanded and assessed a \$1,000 civil penalty, based on Goldman's theft of the prescription drug, lithium. (4-21-98) (A&O)

JOHN D. HOELSCHER, of Walkersville, MD, was issued a restricted license, subject to probationary terms, including his fulfillment of outstanding disciplinary sanctions imposed by the MD Pharmacy Board related to drug impairment. (5-1-98) (A&O)

MAUREEN CARRIGAN-ALTHOUSE, license no. **RP-035247-L**, of Lehighton, Carbon County, was assessed a \$550 civil penalty for practicing pharmacy on a lapsed license. (5-12-98) (C&O)

CARRIGANS COUNTRY PHARMACY, permit no. **PP-414187-L**, of Albrightsville, Carbon County, was assessed a \$550 civil penalty for operating the pharmacy on a lapsed permit. (5-12-98) (C&O)

PAUL R. SEEMAN, license no. **RP-036142-L**, of Butler, was suspended for one year, stayed in favor of two years' probation, for having pled guilty to a crime of moral turpitude. (5-12-98) (C&O)

CYNTHIA DIANE BAVRY-SMITH, license no. **RP-038693-R**, of Frostburg, MD, was suspended for six months and assessed a \$1,500 civil penalty for procuring drugs by misrepresentation or subterfuge. (6-16-98) (C&O)

BARBARA ANNE MELNICHAK, license no. **RP-028522-L**, of White Oak, Allegheny County, was suspended for one year, followed by three years of probation, based on her diversion of controlled substances on several occasions and her unfitness to practice due to drug impairment. (6-18-98) (A&O)

THOMAS J. DEPIETRO, license no. **RP-032285-L**, of Scranton, Lackawanna County, was automatically suspended as a result of his conviction on a felony drug charge. (6-25-98) (A&O)

To File A Complaint

in Pennsylvania:
1-800-822-2113

out of state:
717-783-4854

A complaint form is available on the Department of State's internet site.
The web address is: **www.dos.state.pa.us**

If you believe the practice or the service provided by a licensed professional to be unethical, immoral, below an acceptable standard of practice or out of the scope of the profession, you are urged to contact the Bureau of Professional and Occupational Affairs to obtain a complaint form.

The Year 2000 and Pharmacy Computers

The State Board of Pharmacy wants to alert all pharmacists and pharmacies of potential problems which may or may not occur with your computer software on January 1, 2000. There does not appear to be any one source for a checklist of potential problem areas. However, the best rule of thumb is to contact the computer software vendors now instead of waiting until the last month or so of 1999. Without knowing what obstacles will exist in pharmacy computers, it may take several months to up-

date and correct any problems. Those waiting until the last minute to investigate their systems may find themselves without access to pharmacy records on January 1, 2000.

This problem of being unable to process information may arise as soon as January 1, 1999. Because prescriptions for noncontrolled legend drugs are valid for one year from the original date of filling, the year 2000 may appear in a prescription record earlier than expected.

Helpline Number

If you, or a licensed professional you know needs help with a drug or alcohol problem, please call the Department of State's Voluntary Recovery Program at 1-800-554-3428 or 717-783-4857.

Help is just a phone call away.

Optometrists Granted Limited Prescriptive Authority

The State Board of Optometry is in the process of certifying qualified optometrists to prescribe and administer certain therapeutic drugs. Qualified optometrists will have license numbers with a "T" suffix (e.g., OE-000000-T). Although some controlled substances in Schedules III, IV and V are included among the drugs approved for optometric use, the DEA has not yet issued federal licenses to optometrists. Most optometric prescriptions, however, will involve non-controlled drugs.

A copy of the approved drug list will be available on the State Board of Pharmacy's page through the Department of State website. Copies can also be obtained by contacting the board office.

P E N N S Y L V A N I A

State Board of
Pharmacy

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