

New Legislation Impacting the Health Professions
GA 147 Session 1

<u>BILL NUMBER</u>	<u>SYNOPSIS</u>
<u>HS 1 for HB 28</u> <u>Effective Upon</u> <u>signature</u> (Controlled Substance)	<p>Amends Title 16, Chapter 47, creating a new crime: operating or attempting to operate a clandestine laboratory defined as any location on or in which a person assembles any chemicals or equipment which are intended to be used or have been used to unlawfully manufacture a controlled substance or other substance in violation of the Uniform Controlled Substance Act.</p> <p>Any person convicted under this new section will be responsible for all reasonable costs associated with remediation of the site and any other site resulting from the operation or disposal of substances or materials from a clandestine laboratory. This act is modeled after similar laws from Pennsylvania and West Virginia.</p>
<u>HB 130</u> <u>Effective 01/01/14</u> (Controlled Substance)	<p>Amends Title 16, Chapter 47, requiring pharmacists to submit information to the NPLeX before completing a sale of over-the-counter pseudoephedrine or ephedrine. State and federal laws limit the amount of nonprescription pseudoephedrine ("PSE") consumers can buy to prevent diversion for production of methamphetamine. States, however, need an effective way to enforce those limits statewide and across state borders to curb the practice of "smurfing," whereby criminals make purchases at multiple stores to acquire illegal quantities of PSE. The solution is a multi-state PSE sales blocking system: the National Precursor Log Exchange system (NPLeX) which the National Association of Drug Diversion Investigators provides at no cost to states that have legislation requiring real-time electronic monitoring of precursor purchases and agree to use the system. Currently, 25 other states have adopted PSE tracking through NPLeX. The blocking technology monitors all nonprescription PSE purchases in real time to prevent meth cooks from purchasing pseudoephedrine in amounts exceeding legal limits.</p>
<u>HB 141 w/ HA 1</u> <u>Effective Upon</u> <u>Signature</u> (Chiropractic)	<p>Amends Title 24, Section 711, creating a new basis for discipline of licensed chiropractors by adding a new definition of disciplinable "unprofessional conduct." Prohibits payment by chiropractors for new patient referrals. Specific exceptions are spelled out for fee splitting within a practice group of chiropractors, chiropractors who are employed by (or under contract with) Delaware licensed physicians, and Delaware hospitals.</p> <p>The amendment further requires "the estate of a licensed chiropractor" to "divest of the chiropractic business" within one year.</p>
<u>SB 46</u> <u>Effective Upon</u> <u>Signature</u> (Medical)	<p>Amends Title 24, Chapter 17, creating a new Section 1728 authorizing physicians licensed in other states and countries who travel with out-of-state sports teams to Delaware for sporting events to provide medical care to those teams, coaches, and their families during those events. Such visiting physicians are prohibited from providing medical care to any other person residing or present in Delaware, except in an emergency. This temporary exemption from licensure for visiting team physicians does not authorize that person to practice medicine in a hospital or other health care facility, and it limits the permissible window to ten days per sporting event unless extended by the Executive Director of the Board of Medical Licensure and Discipline.</p>

<p><u>SB 59 w/ SA 2</u> Effective Date: Section 1 upon signature Section 2 03/01/14</p> <p>(Controlled Substance)</p>	<p>Amends Title 16, Chapter 47 creating the Controlled Substance Advisory Committee, a designee/recommending body that previously existed only in regulation; makes numerous grammatical corrections; makes uniform the language pertaining to the Secretary's duty to the public interest; codifies requirements applicants must meet before they are issued a controlled substance registration; adds discipline of one's professional license as a basis to have a controlled substance registration denied or disciplined; limits the Secretary's power to issue a rule to show cause order to those instances in which a registrant no longer meets the requirements for registration or has failed to complete mandatory continued education; increases the Secretary's power to fine from \$500 to \$1,000 per offense; clarifies that all hearings contemplated by this Subchapter are governed by the APA; and revamps the Secretary's power to temporarily suspend a controlled substance registration to create a process akin to that used by the Board of Medical Licensure & Discipline.</p> <p>Further amends this Chapter to permit Professional Counselors of Mental Health and Chemical Dependency Professionals to access PMP for the treatment of substance abuse and requires practitioners & dispensers to register with the PMP by 01/01/14 and hospitals and emergency centers to register by 03/01/14.</p>
<p><u>SB 73 w/SA 1 & HA 1</u> Effective Upon Signature – Signed 06/30/13</p> <p>(Controlled Substance)</p>	<p>Amends Title 16, Chapter 47, authorizing a licensed pharmacist, pharmacist intern or pharmacy student under the supervision of a pharmacist to sell hypodermic syringes or needles without a prescription to individuals who are at least 18 years of age for self-administration of medication or administration of medication to a minor to whom the purchaser is the parent or legal guardian.</p> <p>Further permits Delaware licensed nurses to provide hypodermic syringes or needles in the course of patient teaching, discharge teaching or in the course of routine patient care to indigent clients in in-patient, out-patient, and community settings.</p>
<p><u>SB 87</u> Effective Upon Signature</p> <p>(Psychology)</p>	<p>Amends Title 24, Section 3513 permitting licensed psychologists to place her/his license on inactive status at the time of renewal instead of allowing the license to lapse.</p> <p>Rules and Regulations will need to be drafted to outline the requirements for reactivation.</p>
<p><u>SB 88</u> Effective Upon Signature</p> <p>(Respiratory Therapy)</p>	<p>Amends Title 24, Section 1779 permitting respiratory therapists licensed in another jurisdiction to practice in Delaware for the limited purpose of immediate interstate transport need without having to obtain a Delaware license.</p>

<p><u>SB 90</u> Effective Upon Signature</p> <p>(All Professions)</p>	<p>Amends Title 29, Section 8735, empowering the Division of Professional Regulation to issue citations when individuals and businesses are found engaging in unlicensed professional practices regulated by a board, commission, council or committee under the Division. Further amends Title 29, Section 10161.</p> <p>Look for an amendment in January.</p>
<p><u>SB 96</u> Effective Upon Signature</p> <p>(Dental)</p>	<p>Amends Title 24, Section 1132B creating a process for use by Federally Qualified Health Centers to recruit dentists. An applicant may obtain a Provisional License to a dentist working for these particular health care providers before passing the Delaware practical exam. These provisional licenses require "general supervision" by a Delaware licensed dentist, require the applicant take the Delaware practical exam during the first year post-issuance, and require passage of the Delaware practical exam within the second year. Provisional licenses expire after two years, and will not be renewed.</p>
<p><u>SB 114 w/SA 3</u> Effective Upon Signature</p> <p>(Podiatry, Chiropractic, Dental, Nursing, Occupational Therapy, Physical Therapy/Athletic Trainers, and Massage and Bodywork)</p>	<p>Amends multiple chapters of Title 24, adding chaperone requirements for the designated healthcare professionals of podiatry, chiropractic, dentistry and dental hygiene, nursing, occupational therapy, physical therapy/athletic training, social work and massage and bodywork, when treating minors in any manner requiring the patient to disrobe or when there will be an examination of the genitalia or breasts. Chaperone may be parent, guardian, other licensee, or office employee. Same sex as minor patient if practicable. May be waived by minor patient if parent or guardian consents. Exceptions for emergency treatment and only applies to outpatient exams.</p> <p>This attempts to be consistent with the provisions added to the Medical Practice Act after <i>Bradley</i>, with practice specific modifications.</p> <p>Also, randomly, amends Title 24, Section 710, permitting chiropractic licensure by reciprocity for chiropractors who became licensed in another jurisdiction prior to an examination requirement in that State, upon demonstrating active practice for 5 years in that jurisdiction.</p>
<p><u>SB 119 w/SA 1</u> Effective Upon Signature – Signed 07/03/13</p> <p>(Controlled Substance)</p>	<p>Amends Title 16, Section 122, requiring the Department of Health and Social Services to establish and implement uniform protocols for all hospice programs operating in Delaware for the safe disposal of unused medication upon the death or discharge of an in-home hospice patient.</p> <p>Further prohibits non-pharmacy practitioners from dispensing controlled substances beyond a 72 hour emergency supply and requires practitioners who dispense the permitted quantity to enter the data into the prescription monitoring program.</p> <p>Look for the Division of Public Health to be promulgating regulations pursuant to this bill, and watch this bill's interaction with SB 59.</p>

Delaware State Bar Association

Health Law Section

April 19, 2013

Meeting held at Timothy's on the Riverfront, Wilmington, DE

Present: Joanne Ceballos, Ben Schwartz, Shannon Brainard, Tiphany Miller, Bryan Keenan, Teresa Cheek, James Stiller, Diane Andrews, Andrew Wilson, Chris Ezold, Angela Priest, Michael Rafael

Presenter: Patrick Carter, Director of Delaware Division of Revenue

Minutes:

- The meeting was called to order by Joanne Ceballos at 4:24 p.m.
- The February 8, 2013 meeting minutes were circulated by Joanne and approved.
- Joanne noted that the CLE planning committee is open to any additional volunteers and that Nate Trexler will reach out to the members of the planning committee to start that process for this year's CLE.
- Joanne noted that Nate's law review article will be coming out soon.
- Joanne circulated the attorney biography form for any section member who would like his/her bio on the DSBA Health Law Section webpage.
- Joanne noted that the Health Law Section's fulfillment of the DSBA public interest event requirement is the opportunity to participate in a blood drive in which members can make an appointment to donate blood up until May 17th.
- The election of officers for the 2013-2014 year took place and the following members were elected to the following positions:
 - Teresa Cheek – Chair
 - Diane Andrews – Vice Chair
 - Shannon Brainard – Secretary
- Motion for the election of the above officers was made and seconded.
- Presentation by Pat Carter followed regarding the suspension of professional licenses for failure to pay taxes. Pat discussed the methods employed by the Division of Revenue to encourage delinquent taxpayers to pay taxes such as "cyber shame," "safe harbors" (i.e., enter into a payment plan with the Division), and revocation of professional licenses. Pat also discussed some statistics with respect to the number of delinquent taxpayers and the amount of money collected by the Division from delinquent taxpayers.