

Summary of 2010 Legislation

This document summarizes recently-enacted legislation that impacts all practitioners licensed by the Board of Medical Licensure and Discipline (BMLD). As implementation of the legislation progresses, the Division of Professional Regulation (DPR) will provide further updates.

The key provisions of each bill are summarized below with effective dates:

- [Senate Bill 232](#) requires that when a professional licensing board revokes or suspends a license at a hearing, the revocation or suspension becomes effective *immediately*. However, the Bill also requires the board to serve a final written order within 30 days after the hearing. (*Effective 7/12/2010*)
- [Senate Bill 233](#) mandates that the Board of Medical Licensure and Discipline establish sanctioning guidelines for disciplinary actions against its licensees. The bill gives the Board one year from the enactment date to adopt these rules. (*Effective 7/12/2010*)
- [Senate Bill 275](#) adds the following new requirements for physicians applying for licensure:
 - 1) Applicants must present service letters, attesting to their good character, from healthcare facilities where they have had either direct patient access or admitting or staff privileges. The bill provides immunity for good faith reporting in service letters.
 - 2) The Board must verify that an applicant is not on the Child Abuse or Adult Abuse Registries. (*Effective 1/30/11*)
- [Senate Bill 296](#) changes the name of the Board of Medical Practice to the Board of Medical Licensure and Discipline to better reflect its mission. It increases the number of public members on the sixteen-member Board from five to seven and adds the Director of Public Health as a member of the Board. The Bill also gives the Board the ability to expedite suspensions of medical licenses where there is a clear and immediate danger to the public health and expands the Board's authority to obtain information from peer review panels. (*Effective 6/30/2010*)
- [Senate Bill 297](#) increases the penalties when healthcare practitioners and institutions fail to report child abuse or allegations of unprofessional conduct. It allows the Department of Health and Social Services (DHSS) to discipline hospitals and nursing facilities that fail to report child abuse and increases the potential civil penalties (to \$10,000) for persons or entities that fail to report child abuse to the child abuse hotline. (*Effective 6/30/2010*)
- [Senate Bill 298](#) authorizes the Board of Medical Licensure and Discipline to impose fines on hospitals, other healthcare institutions and the Medical Society. It increases the potential fines for failure to report unprofessional conduct by a physician to \$10,000 for the first offense and up to \$50,000 for subsequent failure to report. (*Effective 6/30/2010*)
- [House Bill 456](#) requires the following related to *outpatient* examination of children:
 - 1) Another adult must be in the room when a physician is treating a person 15 years old or younger and the child is disrobed or otherwise undergoing certain physical examinations.

- 2) Physicians must notify parents that they have a right to have an adult chaperone present when their child is being examined and must note in the patient record the name of each person present during treatment.

The Bill also requires healthcare facilities to develop policies on treatment of minors and to submit the policies to DHSS. *(Effective 7/1/2011)*

- [House Bill 457](#) mandates that professionals receive additional training in recognizing and reporting child abuse sexual and physical abuse, exploitation and domestic violence as well as their reporting obligations under the Medical Practice Act and § 903 of Title 16. It creates new training requirements for physicians, police and Deputy Attorneys General. *The DPR will provide live and online training to comply with this requirement. (Effective 8/1/2010)*
- [House Bill 458](#) requires all persons licensed by the Board of Medical Licensure and Discipline to undergo criminal background checks every ten years. The DPR will notify licensees to how to meet this requirement. *(Effective: 7/1/2011)*
- [House Bill 459](#) strengthens the Board's authority to police unprofessional conduct and simplifies its administrative procedures: In addition, the Bill assures that similar changes would affect all DPR-administered boards. *(Effective 9/1/2010)*
 - 1) Every BMLD licensee and healthcare facility is required to report any changes in hospital privileges or disciplinary action taken by the Medical Society of Delaware within 30 days.
 - 2) Requires BMLD licensees to report any civil or criminal investigation that concerns their licensure in any jurisdiction.
 - 3) Requires the BMLD to permanently revoke the license of someone convicted of a felony sexual offense.
 - 4) Changes the definition of "unprofessional conduct" to include the following:
 - a) Failure to self report unprofessional conduct or that of other practitioners
 - b) Conduct that would constitute a crime related to the practice of medicine.
 - c) A pattern of negligence.
 - d) Sexual misconduct
 - 5) Clarifies the duty of law enforcement agencies to report criminal conduct of BMLD licensees to the DPR.
 - 6) Authorizes DPR to accept oral complaints and withhold the identity of the complainant.
 - 7) Requires the BMLD to report the receipt of a complaint involving potential criminal conduct to the appropriate law enforcement agencies.
 - 8) Permits a hearing officer to conduct hearings for boards under DPR.
 - 9) Requires that previously closed BMLD disciplinary hearings be open to the public.
 - 10) Expands BMLD access to peer review information and affirms the Attorney General's authority to access such information. Peer review information will be privileged.
 - 11) Allows the BMLD to appoint a custodian of patient records when a physician abandons or involuntarily discontinues his or her practice.
 - 12) Requires the DPR to subscribe to the National Practitioner Databank's Proactive Disclosure Service to receive notifications of out-of-state disciplinary actions.
- [House Bill 485](#) designates DPR as a Criminal Justice Agency and requires DPR to report criminal activity to the Delaware Criminal Justice Information System (DELJIS). *(Effective 6/30/2010)*