

Improving Protections for Delaware's Children



***DELAWARE DIVISION OF
PROFESSIONAL REGULATION***

Gayle Lynn MacAfee, Executive Director
Board of Medical Licensure & Discipline

Background

- **December 16, 2009:** Pediatrician Earl Bradley was arrested and ultimately charged with sexually abusing 127 children over a period of 11 years at his medical office in Lewes, Delaware. Bradley's medical license was suspended on December 29, 2009 and revoked on February 19, 2010.



Background



- Between 1996 and 2009, a hospital, the state medical society and two different police agencies received reports of inappropriate sexual conduct by Bradley towards his young patients. None of these allegations of misconduct by Bradley were reported to the medical board.
- Attorney General Beau Biden and Governor Jack Markell ordered separate investigations concerning why the prior complaints of sexual misconduct against Bradley were not reported to the medical board.

Background



- The Attorney General's and Governor's investigations found:
 - Physicians, other medical professionals, Beebe Hospital, the state medical society, police and prosecutors violated state law by failing to report Bradley's misconduct to the medical board.
 - Institutional charges were required to better protect Delaware's children.
- In 2010, the Delaware General Assembly enacted legislation to implement the recommendations produced by the Attorney General's and Governor's investigations.
- The Division of Professional Regulation was responsible for implementation of the new legislation.

Senate Bill 232



- **This Bill ensures that when a professional licensing board revokes or suspends a license at a hearing, the revocation or suspension shall be effective immediately.**
- **Previously, the discipline only took effective upon the issuance of a written Order resulting from the board members having to sign an Order at their next scheduled meeting.**

Senate Bill 233



- **This Bill mandates that the Board of Medical Licensure & Discipline adopt rules and regulations establishing guidelines for the imposition of discipline against physicians and the members of other professions regulated by the Board. The Bill gives the Board one year from the date of enactment to adopt these rules and regulations.**

Senate Bill 296



- **Renames the Board of Medical Practice “the Board of Medical Licensure and Discipline”**
 - To better reflect its mission
 - To reduce confusion with the private Medical Society of Delaware
- **Increases # of public members on Board of Medical Licensure and Discipline ► 5 to 7**
- **Adds the Director of Public Health as a member of the Board**
- **Gives the Board the ability to expedite suspensions of medical licenses where there is a clear and immediate danger to public health**
- **Gives the Board expanded authority to obtain information from peer review panels**

Senate Bill 297



Promotes the reporting of child abuse and allegations of unprofessional conduct by healthcare practitioners and institutions by:

- **Allowing Delaware Health and Social Services to discipline hospital and nursing facilities if they fail to make mandatory reports of child abuse; and**
- **Increasing the potential civil penalties (to \$10,000) for persons or entities who fail to report child abuse to the child abuse hotline**

Senate Bill 298



- **Gives the Board of Medical Licensure & Discipline the authority to impose fines on hospitals, other health care institutions and the Medical Society**
- **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 failures to report**

Senate Bill 229



- **Clarifies who is in a "position of trust" for purposes of various sexual assault crimes - includes physicians and other medical professionals**
- **Creates a new crime known as "sexual abuse of a child by a person in a position of trust, authority or supervision"**
- **Applies the "position of trust" category to other acts of sexual abuse to enhance penalties**
 - when perpetrated by a person in a "position of trust,"
 - includes sexual extortion, sexual harassment, and indecent exposure

Senate Bill 275



- The Bill authorizes the Delaware Board of Medical Licensure & Discipline to require doctors applying for licensure to present service letters from health care facilities through which they have had direct access to patients, or admitting or staff privileges, attesting to their good character.
- The bill provides immunity for good faith reporting in service letters
- Requires the Board to verify an applicant is not on the Child Abuse or Adult Abuse Registries.

House Bill 456



- **Requires that another adult be in the room when a physician is:**
 - treating a person 15 years of age or younger; and
 - the child is disrobed or otherwise undergoing certain physical examinations
- **Requires that physicians give notice to parents that they have a right to have a chaperone present when their child is being examined**
- **Requires documentation in the patient record of identity of the adult chaperone**

House Bill 458



- **Reforms how we license Delaware physicians**
- **Requires all physicians – both currently practicing and new physicians – to undergo the same kind of background check required of teachers and other professionals who work with youth**
- **Every ten (10) years they are required to be re-fingerprinted since prints can change over time.**

House Bill 459



- **Improves the Board of Medical Licensure & Discipline's reporting process**
 - Strengthens the Board's authority to police unprofessional conduct
 - Clarifies and simplifies the Board's administrative procedures to improve:
 - ✦ its efficiency; and
 - ✦ its ability to work with law enforcement
- **Makes certain that similar changes would affect all boards administered by the Division of Professional Regulation**

House Bill 485



- **Improves communications between the Division of Professional Regulation (DPR) and the law enforcement community by designating DPR as a Criminal Justice Agency**
- **Requires DPR to report criminal activity to the Delaware Criminal Justice Information System (DELJIS)**
- **Improves coordination between Law Enforcement Agencies and DPR regarding reporting and concurrent investigations of allegations against physicians.**

House Bill 457



- **Enacts the recommendations that professionals receive additional training in:**
 - Recognizing child abuse
 - Reporting child abuse
- **Creates new training requirements - Who will be trained?**
 - Physicians
 - Police
 - Deputy Attorney Generals

Website

<http://courts.delaware.gov/childadvocate/training/CPACMedicalTraining.g.stm>

Results of New Legislation/Training



- Increase in Reporting (Numbers of Complaints)

2009 - 116

2010 - 184

2011 - 396

- How has DPR changed to handle the increased volume of reporting?

What Have We Learned?

Protecting the Public Requires:

- Continuing emphasis upon mandatory reporting requirements that are:
 - clearly defined
 - consistently enforced
 - apply to more than just medical professionals
- Ongoing training and education of mandatory reporters regarding the duty to report
- Improved coordination between agencies, institutions involved in investigating complaints against physicians, and other healthcare professionals.

So What Should this Tell us?

If someone had reported Bradley to the medical board in 1996 or 2005 or 2003 (when allegations against Bradley were investigated by a hospital, the medical society, and two separate police agencies, and the state attorney general) the sexual abuse of more than 100 children could have been avoided.

Protecting the public requires continuing emphasis upon mandatory reporting requirements and education.

Contact Information:

Division of Professional Regulation- 302.744.4500

Website: www.dpr.delaware.gov

**Gayle MacAfee, Executive Director, Delaware Board of Medical
Licensure & Discipline**

Phone: 302.677.7311

Email: gayle.macafee@state.de.us