

Stat & Law

UPDATE 2010

Late breaking news on
medical-legal developments
affecting physicians and
health care providers.

A publication of:

**Kern Augustine Conroy
& Schoppmann, P.C.**
"ATTORNEYS TO HEALTH PROFESSIONALS"

Email: kacs@drlaw.com
Website: www.drlaw.com

New Jersey:

1120 Route 22 East
Bridgewater, NJ 08807
Tel: (908) 704-8585
Fax: (908) 704-8899

New York:

1325 Franklin Avenue
Garden City, NY 11530
Tel: (516) 294-5432
Fax: (516) 294-5414

Pennsylvania:

1500 Market Street, 12th Fl
Philadelphia, PA 19102
Tel: (215) 665-5790
Fax: (800) 941-8287

Illinois Affiliate:

Augustine, Kern & Levens, Ltd.
218 N. Jefferson Street
Chicago, IL 60661
Tel: (312) 648-1111
Fax: (312) 648-1057

Florida:

Physicians' Counsel, LLC

A law firm comprised of: Kern Augustine Conroy &
Schoppmann, P.C. & The Health Law Firm
1101 Douglas Avenue
Altamonte Springs, FL 32714
Tel: (407) 523-5850
Fax: (800) 941-8287
© 2010 Kern Augustine Conroy &
Schoppmann, P.C.

Volume XVIII Number 1 - January 20, 2010 - Single Issue Price: \$5.00

Governor Corzine has signed a number of bills that may significantly affect healthcare:

A4229, effective 180 days after enactment, permits prescribers to utilize electronic health record programs to imprint the practitioner's name and license number or the unique provider number on a blank New Jersey Prescription Blank, for transmission to a pharmacy.

S2534, effective immediately upon the Governor's signature, allows private individuals to initiate a civil action against an individual for violating the New Jersey False Claims Act, similar to the whistleblower provision of the Federal False Claims Act. That provision has been credited for a huge increase in the number of cases brought against physicians under the False Claims Act.

S2312, effective on the first day of the 18th month after the date of enactment, requires Ambulatory Care Facilities to report the number of patients served at the facility by payment source, including the number of Medicaid-eligible and medically indigent persons served; the number of new patients accepted at the facility; and the number of physicians, physician assistants, and advance practice nurses providing professional services at the facility. This reporting requirement mirrors that of surgical practices under the 2009 Codey Act amendments. The bill also requires these facilities to report data on infection control and infection rates, which the NJ Dept of Health & Senior Services' will post on its website.

S114, effective 364 days after enactment, requires carriers offering a managed care plan to remit payment in the form of a check payable to the health care provider, or in the alternative, to the healthcare provider and the covered person as joint payees, with a signature line for each of the payees. The Act applies to any health benefits plan where the carrier has reserved the right to change the premium and which is in effect on or after the effective date.

A2029, effective immediately upon the Governor's signature, expands the role of chiropractors to allow them to use the designation "chiropractic physician" and permits them to provide "nutrition and first aid." The bill also allows them to order diagnostic and analytical tests, including diagnostic imaging, bioanalytical laboratory tests, including reagent strip tests, x-ray, computer-aided neuromuscular testing, and nerve conduction studies, and to interpret evoked potentials. Under the Act, chiropractors can provide dietary and nutritional counseling, and administer, dispense and sell nutritional supplements, including food concentrates, food extracts, vitamins, minerals, herbs, enzymes, amino acids, homeopathic remedies, and other dietary supplements, including tissue or cell salts, glandular extracts, nutraceuticals, botanicals and other nutritional supplements. Notably, physicians are subject to supply and price restrictions when dispensing these supplements. The new law also prohibits anyone other than a chiropractor from rendering a utilization management decision that limits, restricts or curtails a course of chiropractic care.

S2944, effective immediately upon the Governor's signature, expands the role of the Division of Consumer Affairs to investigate and punish the unlicensed practice of medicine or other profession regulated by the Division and increases penalties for unlicensed practice to \$10,000 for the first offense and \$20,000 for each subsequent offense.

Tort Reform Would Save \$54 Billion:

A new study by the non-partisan Congressional Budget Office (CBO) finds that health care costs would be reduced by \$54 billion over the next ten years if Congress were to pass a common package of tort reforms. The study also found no clear evidence that tort reform would diminish health care. According to the CBO, tort reform would lower costs for health care both directly, by reducing medical malpractice costs by \$13 billion, or ten percent, and indirectly, by \$41 billion, by reducing the use of health care services through changes in the practice patterns of providers. That amounts to a 0.5 percent reduction in total national health spending. Hopefully, this new report will re-energize efforts to reform our tort system.