Message from the Chair

By John C. Cameron, Pennsylvania State University

As we come to the start of a new year, the Health Care Law Committee continues to serve the interests of its membership. Our members represent health care providers, state and local government, consumers, insurers, the business community and community organizations. Many of our members have professional accomplishments in governmental affairs, psychology, mediation, technology, dental medicine, allied health sciences and nursing.

Ursula L. Marks has joined us as our PBA staff liaison and she is already hard at work in assisting our Committee. We thank Pam Kance for her support in the past and wish her success in her new PBA role. At our last meeting, the Committee recognized Clifford A. Rieders and Lisa M. Benzie for their outstanding service as past Committee chairs. We are most grateful for their contributions to the Committee. We welcome Roseann Terminini as the new vice chair of the Health Care Law Committee. She is an accomplished legal scholar, teacher and active member of our Committee.

Our Committee meets to review, study and make recommendations to the PBA House of Delegates on many legislative proposals for reform in the health care system. The Committee also addresses ethical considerations as related to the medical and legal professions.

We encourage our members to participate in the Pennsylvania Bar Institute’s Health Law Institute held annually in Philadelphia. See the ad below for more information.

We continue to develop and publish our newsletter. Members are invited to submit articles, announcements, notices and acknowledgements. I want to recognize Patricia Graybill of the PBA for her assistance in creating our newsletter.

The Committee has established various subcommittees to focus on specific topics. We invite members to participate in these areas of interest. More details are available in our Subcommittee Updates on Page 7.

In addition, our Committee strives to keep members informed of changes in health law legislation affecting health care services via our listserv, which is available for use by all members of the Committee.

The PBA Health Care Law Committee will meet on Thursday, May 15, at the Hershey Lodge as part of the PBA Committee/Section Day. Conference call capability is available for your convenience. We hope that you are able to join us for a meaningful meeting.

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Celebrating 20 years!
Join your colleagues for Pennsylvania’s premier health law event in this year of the Affordable Care Act.

20th Annual PBI Health Law Institute
Learn practical and realistic solutions to everyday and unexpected problems in health law.
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More information & online registration at www.pbi.org.
Greetings to the members of the PBA Health Care Law Committee. We appreciate your interest and involvement in the work of our committee. This year, various subcommittees have been organized and we are grateful for the volunteer efforts of the subcommittee chairs and look forward to their input on specific topics in the health care field.

As many of you know, the Widener University School of Law Food and Drug Law Association hosts an annual seminar. This spring, the Association will host its 4th Annual CLE program on the Delaware campus on March 26, from 1-3 p.m. The program qualifies for two CLE credits in Delaware and Pennsylvania, including one in ethics. A reception will follow the program.

The program “All Matters FDA: The Year in Review, Crimes, Misdemeanors and More” promises to be informative and interactive. The distinguished panel will address issues related to Food and Drug Administration (FDA) enforcement and top accomplishments across the food and drug law spectrum. Top government officials and renowned experts will address legal and regulatory matters related to food and drug law. Topics will focus on all aspects of food and drug law including criminal enforcement, antibiotic use in animals, dietary supplements, arsenic in food, the latest U.S. Supreme Court decisions involving generic drugs, pay-for-delay and ethical issues to name a few.

For more information contact Carol A. F. Perrupato, coordinator of CLE and special programs, at 302-477-2178 or via email at caperrupato@widener.edu.

By Roseann B. Termini, Widener University School of Law

NEXT MEETING:
The PBA Health Care Law Committee will meet Thursday, May 15, at 11:00 a.m., at the Hershey Lodge, Hershey, as part of PBA Committee/Section Day.

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Members in the News

Robert J. Conroy of Kern Augustine Conroy & Schoppmann PC, Bridgewater, N.J., was elected to the executive council of the Florida Bar’s Health Law Section.

At the meeting of the PBA Health Care Law Committee at PBA Committee/Section Day on Nov. 21 in Harrisburg, Chair John C. Cameron (left) and PBA President Forest N. Myers (right) presented certificates of appreciation to immediate past chairs Lisa M. Benzie (center) and Clifford A. Rieders for their hard work and dedication. Rieders participated in the ceremony via teleconference.

The Benevolent Gesture Medical Professional Liability Act

by John C. Cameron

The Benevolent Gesture Medical Professional Liability Act, P.L. 665, No. 79 was enacted on Oct. 25, 2013, and is now in effect with respect to lawsuits filed after Dec. 23, 2013. The statute defines “benevolent gesture” as “any action, conduct, statement or gesture that conveys a sense of apology, condolence, explanation, compassion or commiseration emanating from humane impulses.” The law encourages communication between the health care provider and the patient/resident or their families and representatives. A benevolent gesture would be inadmissible as evidence of liability in a subsequent legal proceeding.

The act still permits evidence to be admitted in a subsequent medical malpractice case that constitutes a communication that also includes “a statement or statements of negligence or fault pertaining to an accident or event.” Any acknowledgement of fault would not be protected under the statute.

The law is consistent with the patient-physician relationship and encourages communication concerning unanticipated outcomes of medical care. The statute preserves the rights of the parties by recognizing that expressions of sympathy are not admissible to prove liability, however, any statement that acknowledges liability would not be excludable evidence.

PBA Membership Benefit:
Funding for Sign Language or CART Interpreters

PBA members who provide legal services to the deaf and hard-of-hearing may now apply to receive up to $150 twice per quarter toward the cost of employing a sign language or CART interpreter. Applications can be found at www.pabar.org/public/committees/disabili/Sign%20Lang.pdf. For more information, contact PBA Committee Relations Coordinator Louann Bell at 800-932-0311, ext. 2276, or louann.bell@pabar.org.
Effective Sept. 23, 2013, a number of the privacy and security regulations promulgated pursuant to the Health Insurance Portability and Accountability Act (HIPAA) apply to a covered entity’s “Business Associates” (BAs) directly, creating the potential for the business associate to be found directly liable under the regulations and assessed civil money penalties by the Department of Health and Human Services (HHS). Lawyers and law firms who are provided with access to medical records and other “protected health information” (PHI) by covered entity clients in order to perform legal services for the client are likely business associates of the client, and therefore subject to these regulations. Similarly, the regulations also apply to a law firm that subcontracts with the BA of a covered entity.

So what exactly do law firms have to do to be compliant?

First and foremost, any law firm that is a BA of a covered entity (or a subcontractor of a covered entity’s BA) must perform an internal risk analysis. This means taking a serious, critical look at the law firm’s practices that involve PHI in order to identify potential sources of inappropriate use or disclosure of the PHI. This assessment is ideally performed by a committee of both professionals and support staff (including IT staff) who are involved in the use of PHI within the firm. The sources of potential risk may include everything from the physical plant (i.e., where hard copies of PHI are maintained) to the security of the firm’s computer network. The use of portable devices, including smartphones, tablets, laptops and thumb drives must also be evaluated.

Once the areas of risk are identified, the firm must then develop policies and procedures to minimize the potential for improper use or disclosure from these areas of risk. Specifically, the regulations refer to the need for administrative, procedural and technological safeguards to address and minimize risk. Such safeguards may address such things as encryption of portable devices and reporting of lost or stolen devices, transport of hard copy PHI outside the office, orientation of new employees, visitor check-in and electronic access to PHI stores on the firm intranet. Policies should be user friendly, tailored to your firm’s needs and practices and should not just be a regurgitation of the regulations.

Another important step in the firm’s compliance with these HIPAA regulations is educating the firm’s workforce regarding the policies at issue. A well-thought-out, well-articulated policy does the firm no good if firm employees are not familiar with it and do not follow it.

In addition, if the law firm re-discloses PHI it receives from the client (for example, to an expert), the firm must then enter into a business associate agreement with the person or entity to whom the information is re-disclosed. Such agreements must comply with the applicable provisions of 45 CFR Section 164.504(e).

Note, a BA’s obligation to comply with the HIPAA regulations is scalable, meaning that the regulators do not expect a small firm to invest the same amount of time and resources in compliance that a larger, regional, national or international firm would be expected to expend. However, smaller firms should not view this as a “pass.” Failing to address compliance in a serious (though scalable) manner is a sure-fire way to incur penalties in the event of a breach investigation. Furthermore, the federal government has the right to audit both covered entities and their business associates for HIPAA compliance, so law firms to which these regulations apply could be subject to such scrutiny in the future.

A perusal of the HHS website’s case examples and resolution agreements should persuade firms that not developing a compliance plan is not an option. Just last month, a dermatology practice in another state agreed to a payment of $150,000 for violations connected to the theft of an unencrypted thumb drive. In August of last year, Affinity Health Plan Inc. settled claims of potential HIPAA violations for more than $1.2 million. In that case, the government’s charges stemmed from Affinity’s return to a leasing agent of photocopiers without erasing PHI from the hard drives. In 2011, Massachusetts General paid $1 million to settle claimed violations stemming from PHI in a briefcase left on the subway and lost by an employee of a physician practice. These violations are all examples of problems that law firms could face and must take steps to avoid.
Physician Orders for Life-Sustaining Treatment (POLST)

By Richard J. Relyea, Chair, Bioethics Subcommittee, PBA Health Care Law Committee

Most health care attorneys are familiar with the various kinds of advance directives, including powers of attorney for health care and living wills. In recent years a new document, Physician Orders for Life-Sustaining Treatment (POLST), has become available. It is designed not to be a new kind of advance directive, but to be a complement to advance directives. It can serve some of the same purposes, and its advocates maintain that it is better than a power of attorney or living will, because it is a health care professional’s order rather than a document from a patient stating his or her wishes.

Pennsylvania POLST information is available from the Aging Institute of UPMC Senior Services and the University of Pittsburgh. See www.aging.pitt.edu/professionals/resources-polst.htm for information and references. That website includes the Pennsylvania POLST form, an item-by-item review of the form, guidance for health care professionals, information for patients and families and frequently asked questions. The Cleveland Clinic Journal of Medicine has published a very useful article: “POLST: An improvement over traditional advance directives” (Volume 79, Number 7, July 2012, pp. 457-464). It is an excellent discussion of the subject for anyone involved in end-of-life decisions.

Pennsylvania has a comprehensive statutory scheme to cover advance directives: Act 169 of 2006. It is codified as Chapter 54, “Health Care,” of Title 20, Pennsylvania Consolidated Statutes.

Section 5422, “Definitions,” includes “Advance health care directive,” “Health care power of attorney” and “Living will.” The first term is defined as one or the other of the other two or a combination of those two.

The main difference between a power of attorney and a living will is that a power of attorney names someone to make health care decisions in place of the principal and a living will specifies the principal’s health care wishes and instructions. Either document is intended to apply when the principal is in such a condition that he or she cannot express those wishes and instructions. The statute provides for combining these two documents into one and includes a form.

The POLST takes a different approach. Rather than coming from an individual who wants to express his or her wishes and instructions, it comes from a health care provider. In Pennsylvania this means a physician, physician’s assistant or nurse practitioner. The POLST becomes a medical order from that provider to the providers who later become responsible for an individual’s health care.

The Pennsylvania POLST form contains the provisions and choices that the health care provider and patient and/or the patient’s family should discuss. That discussion should include any advance directives that the patient has in place. Section A of the form offers a choice between attempting and not attempting CPR under certain conditions. Section B offers choices among “Medical Interventions,” “Comfort Measures Only,” “Limited Additional Interventions” and “Full Treatment.” Section C governs the use of antibiotics. Section D offers choices concerning “Artificially Administered Hydration/Nutrition.” Section E is “Summary of Goals, Medical Condition and Signatures.” The health care provider’s signature makes it a medical order, and the patient’s signature indicates her or his agreement with the document’s contents. The reverse side of the Pennsylvania POLST form contains “Directions for Health care Professionals,” “Completing POLST,” “Using POLST,” “Review” and “Revoking POLST.”

Perhaps the most important feature of a POLST is that it is a health care professional’s order, which should mean that in a time of medical crisis its terms will be accepted and followed by the providers responsible for the patient.

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Another important feature of a POLST is its provision for health care provider-patient consultation. Such consultations give the provider the opportunity to explain to the patient/family the patient’s condition and prognosis, including life expectancy, and the medical options available in view of that condition and prognosis. The provider must ensure that the patient/family understands those items, especially the medical options and their potential risks and benefits. In order to promote complete understanding, the provider should ask that the patient/family repeat back what the provider has said.

In summary, a POLST is a valuable instrument for expressing a patient’s medical wishes and instructions, and for directing health care providers to follow those wishes and instructions. It should be used together with a health care power of attorney and a living will, if the patient has those documents.

Medical and legal professionals who are or may be involved in end-of-life decisions should familiarize themselves with the POLST and should look for training about it. Health care providers and attorneys need to know what the POLST provisions and issues are. They need to learn how to have useful discussions with patients and their families. A POLST has value only when it is used, when its use is understood and when the patient’s wishes and instructions are followed.

Help With Your PBA Health Care Law Committee Listserv

The following instructions should assist in your effective use of your Committee’s listserv.

To subscribe, log in on the PBA website with your PBA member username and password, select the “Committees/ Commissions” tab, then the “Health Care Law Committee” tab, then the “Listserv Sign-Up” tab. The subscription form can also be accessed directly at www.pabar.org/public/listserv form.asp.

Once subscribed to the listserv, you will get the following confirmation message:

“File sent due to actions of administrator traci.raho@pabar.org.”

To send a message to members of the listserv, address your email to health@list.pabar.org.

To reply only to the sender, hit “Reply,” and type your personal reply to the sender. This response will only go to the sender, not to the entire listserv membership. You can manually add other recipients outside of the sender or the membership.

To reply to the entire listserv membership, hit “Reply to All,” and type your response. This response will go to the sender and to the entire listserv membership.

To unsubscribe, send a message to listserv@list.pabar.org with “unsubscribe health” in the body.

To change your email address, you must unsubscribe the old email address using the old email address and subscribe the new email address using your new email address. Sending an email to the list will not change your email address on the listserv.

For customer service, contact Traci Raho, PBA internet coordinator, 800-932-0311, ext. 2255.
Subcommittee Updates

The PBA Health Care Law Committee has established working subcommittees to address specific topics of interest to the members. Members are encouraged to join and participate in any of the subcommittees. Please notify the appropriate subcommittee chair of your interest.

Subcommittees review proposed legislation from various perspectives and make recommendations to the Committee on any position that warrants consideration by the PBA House of Delegates.

Serving on a subcommittee does not usually require much time by the members until an issue is raised and then may involve phone calls/emails and some reading and analyzing. If a member becomes aware of an issue, we encourage the member to email the appropriate subcommittee chair to start the process of review.

Mental Health Subcommittee

Rose Constantino, Co-chair
Paula G. Sanders, Co-chair
Cherin Silver

The Mental Health Subcommittee promotes dialogue surrounding mental-health matters and provides resources for individuals with mental health concerns. The subcommittee affords an opportunity to address consent to treatment issues, equal access to care and mental-health benefits and to elevate the issue of mental-health care and promote advocacy.

Legal Action Subcommittee

Lisa M. Benzie, Chair
Clifford A. Rieders
Ann L. Begler
F. Evan Black
Randall G. Gale

The Legal Action Subcommittee will review litigation, legislation and surveys that impact the Health Care Law Committee, bills that are introduced into the Pennsylvania Legislature and other business that the Committee requests or deems appropriate. The subcommittee is comprised of plaintiff and defense attorneys, including those specializing in mediation. The subcommittee intends to provide regular updates on bills and laws that impact health care and issues of litigation in this practice area. The subcommittee will work closely with the PBA legislative staff to become aware of bills of interest, analyze them and offer an objective explanation for the full Committee’s consideration. The subcommittee will draft and propose resolutions, if deemed appropriate, in order to effect and set PBA policy.

Health Information Subcommittee

Katherine B. Kravitz, Chair
Richard P. Kidwell
Joy E. Sadaly

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Subcommittee Updates

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Newsletter Subcommittee
John C. Cameron, Co-chair
Roseann Termini, Co-chair
Carolyn Wepfer
The purpose of the newsletter is to facilitate communication among the members of the Committee on topics of interest. The editors encourage reader contributions.

Population Health Subcommittee
Thomas M. Devlin, Co-chair
Clifford A. Rieders, Co-chair
Grace R. Schuyler, Co-chair
The Population Health Subcommittee will deal with issues concerning community outreach, consumer health protection, access to health care and public health notices.

Bioethics Subcommittee
Richard J. Relyea, Chair
Shaun J. McNelis
Betty S. Adler
Janet M. Lis
The Bioethics Subcommittee reviews legislation concerning the many aspects of end-of-life decisions, bioethical issues in clinical research, scientific responsibility, and ethical dilemmas in the choice of health care services.

Health Professional Networking Subcommittee
Robert J. Conroy, Chair
Robert R. Hopkins
Dennis G. Hursh
Clifford A. Rieders
The Health Professional Networking Subcommittee is charged with serving as a liaison with the health care community and the various health care professionals that serve the commonwealth’s people. As part of its activi-
Changes in the New DSM-5 Matters to the Mental Health Subcommittee

By Rose E. Constantino, University of Pittsburgh
Chair, Mental Health Subcommittee, PBA Health Care Law Committee

The Diagnostic and Statistical Manual (DSM) provides professionals with symptom checklists that allow for a mental disorder assessment, diagnosis and intervention to be made. The manual is published by the American Psychiatric Association. Changes have been incorporated into the fifth edition of the Diagnostic and Statistical Manual for Mental Disorders. The aim set for DSM-5 is to help physicians and clinicians, educators and researchers design better interventions for all persons across the life span. For the lawyer, understanding DSM-5 could lead to better collaboration and consultation with clients, families and psychiatric or mental health experts and reduce the use of general labels that tend not to be consistently applied across diverse legal systems.

The Changes

The most significant changes from the DSM-4 to DSM-5 under the Neurodevelopmental Disorders chapter are: Intellectual Disability (Intellectual Developmental Disorder) and the need to assess both cognitive capacity (IQ) and adaptive functioning, 2) Communication Disorders now include language disorder, speech sound disorder, childhood-fluency disorder and social (pragmatic) communication disorder. Autism Spectrum Disorder is a new DSM-5 disorder. Several changes have been made to attention-deficit/hyperactivity disorder (ADHD). Specific Learning Disorder includes reading disorder, mathematics disorder, disorder of written expression and learning disorder not otherwise specified.

Two changes were made to Criterion A for schizophrenia: 1) the elimination of the special attribution of bizarre delusions and Schneide- rian first-rank auditory hallucinations. Schizoaffective disorder is reconceptualized as a longitudinal instead of a cross-sectional diagnosis. Bipolar disorders now include both changes in mood and changes in activity or energy. Because of concerns about potential overdiagnosis and overtreatment of Bipolar Disorder in children, a new diagnosis of Disruptive Mood Dysregulation Disorder is included for children up to age 18 years. Premenstrual Dysphoric Disorder is now found in the main body of DSM-5.

Anxiety Disorder no longer includes Obsessive-Compulsive Disorder or Post-traumatic Stress Disorder because OCD and Related Disorders include Hoarding Disorder, Excoriation Disorder and Substance/Medication-Induced Disorder due to Another Medical Condition. PTSD is now included in Trauma- and Stressor-Related Disorders along with Adjustment Disorder, Reactive Attachment Disorder and Disinhibited Social Engagement Disorder. New disorders are placed into a section called “Conditions for Further Study.” Proposed criteria sets are presented for conditions needing further research to help clinicians, educators and researchers communicate with one another.

These conditions may be the first and only signs we observe in a law practice because individuals who think, feel and behave this way are walking, functioning persons who are confronted with legal issues.

The chapter on “Other Conditions that may be a Focus of Clinical Attention” attracted my attention because they are not mental disorders. Their inclusion in DSM-5 is meant to draw attention to the scope of additional issues that may be encountered in routine clinical practice and to provide a systematic listing that may be useful to clinicians in documenting these issues” (DSM-5, p715). These conditions may be the first and only signs we observe in a law practice because individuals who think, feel and behave this way are walking, functioning persons who are confronted with legal issues. Included are only the first five listed in the chapter: 1) Relational Problems: problems related to family upbringing and other problems related to family support, 2) Abuse and Neglect: child maltreatment and neglect problems; child sexual abuse; child neglect; child psychological abuse; adult maltreatment and neglect problems; spouse or partner violence; sexual, spouse or partner neglect; spouse or partner abuse; psychological and

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The New DSM-V Matters to the Mental Health Subcommittee
(Continued from Page 9)

adult abuse by nonspouse or nonpartner, 3) Educational and Occupational Problems: educational, occupational, housing and economic problems. 4) Other Problems Related to the Social Environment: phase of life problem, problem related to living alone, acculturation difficulty, social exclusion or rejection, target of (perceived) adverse discrimination or persecution, unspecified problem related to social environment, and 5) Problems Related to Crime or Interaction with the Legal System: victim of crime, conviction in civil or criminal proceedings without imprisonment, imprisonment or other incarceration problems related to release from prison and problems related to other legal circumstances.

The impact of these changes could matter for each law practice, but may not be realized immediately. DSM-5 is here to stay. We can choose to use it or not. Its publication culminates a 14-year revision process. The American Psychiatric Association is a national medical specialty society whose physician members specialize in the diagnosis, treatment, prevention and research of mental illnesses including substance-use disorders.

The Mental Health Subcommittee of the Health Care Law Committee recommends we pay attention to the gathering clouds of violence in our schools and communities — the “Other Conditions” needing attention because they are not diagnosable disorders but their consequences cut through the intersection of law and health care.

References


www.dsm5.org.

www.psych.org


Contribute to the PABAR-PAC!
The PABAR-PAC’s Success Depends on Your Support

The PBA Legislative Department lobbies for legislation that is important to lawyers in their day-to-day practice so that they may provide efficient and effective legal services to their clients.

The PABAR-PAC is the political action committee of the Pennsylvania Bar Association. The PABAR-PAC can only maintain its level of support of the PBA’s legislative program through a commitment by lawyers such as you. The PBA encourages you to contribute to the PABAR-PAC today and make a difference in how effective its legislative program can be on your behalf.

For more information or to donate, visit www.pabar.org/public/legislative/PAC/pabarpacform.asp.

Be sure to use your NON-CORPORATE credit card.
State Legislative Update

By Fredrick Cabell Jr., PBA Director of Legislative Affairs

The PBA Legislative Department seeks to inform members about adopted or pending legislation that affect our practice areas. The PBA Health Care Law Committee encourages members to express opinions regarding any pending legislation’s importance or impact by contacting the PBA Legislative Department or the leaders of the Committee. To obtain copies of any bill cited below, please contact PBA Legislative Counsel Steve Loux at steven.loux@pabar.org or 800-932-0311, ext. 2246, or directly access bills and other legislative information online at www.legis.state.pa.us.

PBA Legislative Victories

Secured Transaction Law Update (Act 30 of 2013) — This act makes changes to UCC Article 9, correcting some practical problems that emerged after the 2001 revisions. Act 30 defines an individual borrower’s correct name on the relevant paper work for a secured transaction; the name on the borrower’s driver’s license or PennDOT-issued non-driver’s license ID card. For those without either ID, the borrower’s individual name or surname and first personal name is to be used. The act further defines a business’s correct name and provides updates for e-technology.

Settlement of Small Estates on Petition (Act 35 of 2013) — Prior to enactment of Act 35, a small estates petition could be used as an alternative to probate if the estate had no real estate and the value of other assets was less than $25,000. As an alternative to a formal accounting, a probated estate could be settled by petition if the value of all estate assets (excluding real estate) did not exceed $25,000. Act 35 raised both amounts to $50,000. In addition, the act further provides for payments to family and funeral directors, raising various limits from $3,500 and $4,000 to $10,000.

Municipalities Planning Code Notice Amendments (Act 36 of 2013) — This act defines electronic notice and mailed notice — a notice given by a municipality by first-class mail or electronically to a landowner or an owner of mineral rights within a municipality, of the time and place of a public hearing and the particular nature of the matter to be considered. The PBA worked to have electronic notice included in the legislation.

Family Finding for Children (Act 55 of 2013) — We supported the part of the act that requires counties to conduct ongoing efforts to find family for children who become involved with a Children and Youth Agency, as family finding is a successful strategy for serving families whose children have experienced or are at risk for abuse, neglect or other inadequate parental care or control. We suggested various technical changes that were adopted in the act.

Codification of the Nonprofit Corporation Law (Act 67 of 2013) — This act completes the codification of the Nonprofit Corporation Law (NCL), updating the law and making it consistent with the Business Corporation Law (BCL), while also enacting the Uniform Unincorporated Nonprofit Association Act (UUNAA) to address the lack of a coherent body of statutory law governing the internal affairs of such associations in Pennsylvania. NCL revisions are made so that nonprofit corporations may make use of e-communications technology to provide for notice of meetings, granting of proxies and acting by consent without a meeting. A few BCL updates are made relating to e-communications so that the BCL and NCL provisions are the same.

Revised Uniform Law on Notarial Acts (Act 73 of 2013) — This act provides minimum standards for all notarial acts and governs the recognition of notarizations across state and national lines. Act 73 also addresses the misuse of the term notario publico, a designation in Spanish-speaking countries that permits one to practice law, and has been misused in Pennsylvania to enable unauthorized process of law. Those misusing the term notario publico engage in fraudulent activities in communities where the residents are not familiar with American legal processes, by passing themselves off

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as having the education, training and authority of attorneys. The act outlaws the use of the term in Pennsylvania other than by attorneys and has stringent advertising requirements.

Changing the Age of Judicial Retirement to 75 (JR-3 of 2013) — This joint resolution proposes an amendment to the Pennsylvania Constitution increasing the retirement age for justices, judges and justices of the peace from 70 to 75. (It must be passed again by the General Assembly next session, and then be approved by the voters before it amends the Constitution.

Real Property Tax Sales (HB 1409) — We have been directly involved with drafting an omnibus amendment to HB 1409, which simplifies and codifies the real estate tax sale process. Our concern with ensuring due process within the provisions of HB 1409 means that notice of real property sales will remain in county bar journals.

State Legislative Update
(Continued from Page 11)

Priority Issues and Bills

Child Protection Legislation (various bills) — We have weighed in successfully, as to the definition of perpetrator and child abuse. We are also lobbying against requiring a court to determine if a party has been provided general protective services, or in the minimum, requiring that such information is provided to all interested parties and that a member of county children and youth supplying the information authenticate it in court.Significantly, we have also weighed in against making lawyers mandated reporters of child abuse.

Child Abduction Prevention (HB 286 and SB 689) — We are supporting passage of the Uniform Child Abduction Prevention Act.

Protecting County Bar Journal Advertisements (SB 733) — We have worked closely with the bill’s sponsor to ensure that the bill makes no changes to the requirement to publish government notices in county bar journals, irrespective of whether the notices are published electronically or in general circulation newspapers.

Clear Title (HB 1808) — We were directly involved with drafting HB 1808, which permits those living on property no larger than a half an acre to obtain ownership through the adverse possession process in as little as 11 years when the owner does not respond to a filing of adverse possession during a one-year period following the filing. Our work on this bill, along with our work on HB 1409 and on Act 90 of 2010 (which established housing courts and the Neighborhood Blight Reclamation and Revitalization Act) demonstrates our continued close work with the General Assembly on combatting blight.

State Geospatial Coordinating Board (HB 1285 and SB 771) — We are supporting the board’s creation, which will permit the creation of more useful mapping and land data records — regularly used by those involved with real estate — at a lower cost.

Deficiency Judgment Act (SB 84) — We are supporting the legislation, which addresses situations where real property collateral securing the same loan is located in more than one county.

Small Estates Administration Amendments (HB 1462) — We are supporting this bill, which amends Title 20 (Decedents, Estates & Fiduciaries), regarding the Pennsylvania Uniform Transfers to Minors Act, raising the dollar limit to $50,000 from the current $25,000.

Taxing Legal Services (HB 76, SB 76, and HB 1189) — We continue our opposition to HB 76 and SB 76, which would impose a sales tax on (among other things) some legal services in order to address real property taxes. We also continue our opposition to HB 1189, which would allow for the local imposition of a tax on each dollar of sales by attorneys (and others) in order to address real property taxes.