



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HEALTH
8TH FLOOR WEST, HEALTH & WELFARE BUILDING
625 FORSTER STREET, HARRISBURG, PA 17120

SECRETARY OF HEALTH

717-787-6436
FAX 717-787-0191

April 17, 2012

Marilyn J. Heine, MD
President
Pennsylvania Medical Society
777 East Park Drive
Harrisburg, PA 17105

Dear Dr. Heine:

I would like to take this opportunity to allay the concerns recently expressed by the Pennsylvania Medical Society regarding the hydraulic fracturing disclosure requirements contained in Act 13 of 2012.

Act 13 contains the most progressive disclosure requirements in the nation related to the chemicals and composition of fluids used in the hydraulic fracturing process. Under Act 13, the Department of Environmental Protection (DEP) will receive all information related to the process, including a descriptive list of chemical additives, the trade name, vendor and description of each additive, the maximum concentration used in the fluid and the base amount of fluid used. Additionally, all proprietary and confidential information must also be disclosed to DEP.


In addition, Act 13 provides that the vendor or service provider must provide information to the well operator for posting on the Internet website created by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission, commonly known as FracFocus.org. This new provision was modeled after legislation enacted in Colorado in December 2011, which was widely hailed by environmentalists, public health officials and others.

One of the strong benefits of Act 13's disclosure requirements is its proactive approach to ensuring that health professionals have access to all information they may need to provide care for their patients. Unfortunately, mischaracterization of the non-disclosure agreement has led to some confusion within the public health community that a health professional's ability to care for their patients may be impeded. I assure you that this is not the case.

Under Act 13, if a health professional believes that access to specific proprietary or confidential information – above and beyond that information that is already available in the public domain – is necessary to care for a patient, they are entitled to receive it. Inherent in their right to receive this information is the ability to share the information with the patient, with other physicians and providers including specialists assisting or involved with the care of the patient. Further, reporting and information sharing with public health and regulatory agencies such as the Department of Health is necessary and permitted. In short, the information can be utilized in whatever manner is necessary to respond to the “medical needs asserted” by the health care professional. This replicates the process that has existed for decades under the federal Occupational Health and Safety Act and the federal Emergency Planning and Community Right-to-Know Act.

I believe Act 13 provides the important tools necessary to properly care for patients, including full consultation with the patient and others associated with the patient’s care. Your assistance in communicating with your members regarding these important new public health protections is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Eli N. Avila, MD, JD, MPH".

Eli N. Avila MD, JD, MPH, FCLM
Secretary of Health