

The Washington Post

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AP Enterprise: Pa. docs say drilling law gags them, undercuts public health, limits research

By Associated Press, Published: April 11

PITTSBURGH — Public health advocates and doctors on the front lines of Pennsylvania’s natural gas-drilling boom are attacking the state’s new Marcellus Shale law, likening one of its provisions to a gag order and complaining that vital research money into health effects was stripped at the last minute.

Doctors say they don’t know what to tell patients who suspect their ailments are related to nearby gas industry activity because of a lack of research on whether the drilling of thousands of new wells — many near houses and drinking-water supplies — has made some people sick.

Yet when legislative leaders and the governor’s office negotiated the most sweeping update of the state’s oil and gas law in a quarter century, they stripped \$2 million annually that included a statewide health registry to track respiratory problems, skin conditions, stomach ailments and other illnesses potentially related to gas drilling.

Just last week, the Department of Health refused to give The Associated Press copies of its responses to people who complain that drilling had affected their health. That lack of transparency — justified in the name of protecting private medical information — means the public has no way of knowing even how many complaints there are or how many are valid.

Studies are urgently needed to determine if any of the drilling has affected human health, said Dr. Pouna Saberi, a University of Pennsylvania physician and public health expert.

“We don’t really have a lot of time,” said Saberi, who said she’s talked to about 30 people around Pennsylvania over the past 18 months who blame their ailments on gas drilling.

Working out of public view, legislative negotiators also inserted a requirement that doctors sign a confidentiality agreement in return for access to proprietary information on chemicals used in the hydraulic fracturing, or fracking, process.

Though environmental groups and Shell Oil Co. alike pushed it, doctors and public health advocates say they weren't consulted and had no idea it was in the bill.

State officials say the rule, which mirrors decades-old federal regulations, is meant to give doctors explicit access to drilling firms' secret chemical cocktails. But Pennsylvania's leading medical association contends it may have a chilling effect on research and on doctors' ability to diagnose and treat patients exposed to carcinogens and other toxic substances.

"If there's this confidentiality agreement that you need to sign off on, how open are you to share that information, whether directly with the patient, or with the state, or for research?" said Dr. Marilyn J. Heine, president of the Pennsylvania Medical Society. "There is some ambiguity. The law isn't identifying what the limitations are."

The law, which takes effect April 14, includes a new "impact fee" on gas drillers, stronger environmental protections, and online disclosure of chemicals used in fracking, the technique that's allowed drillers to reach previously inaccessible gas deposits deep underground. A challenge to the constitutionality of the disclosure restriction is part of a broader lawsuit filed March 29 against the new law.

To frack a well, drillers blast millions of gallons of water, sand and chemicals deep underground to crack shale deposits and release trapped gas. Environmentalists and some residents believe the chemicals have polluted drinking-water supplies. The industry says there's no proof.

The Pennsylvania law, borrowed from new Colorado regulations, exempts proprietary fracking formulas but instructs drillers to reveal the identity and amounts of "any chemicals claimed to be a trade secret" to any health professional for treating a patient who may have been exposed. In return, the doctor must hold the information in confidence.

The medical society says doctors will need explicit guidance on the limitations. Will physicians be permitted to write a medical journal article about a case? Inform colleagues at a staff meeting? Discuss it with public health researchers or health regulators?

Patrick Henderson, Gov. Tom Corbett's top energy official, said doctors will be permitted to inform patients and those who treat them. But he declined to address other circumstances in which a doctor might feel there's a legitimate need to share information, saying he wouldn't discuss "potentially endless scenarios."

He said fears about the new law are unwarranted.

"There is no gag order," Henderson wrote in an email. "Quite the contrary, the law seeks to foster health professional access to the information, and implicit in that is the free exchange of information with their patient so they can, together, make informed decisions."

While it has attracted attention and controversy in Pennsylvania, the provision giving doctors access to chemical makers' trade secrets has a 25-year history on the federal level. The Occupational Safety and Health Administration and the Environmental Protection Agency both have regulations that allow doctors to gain access to proprietary chemical information to treat patients — but require them to sign non-disclosure agreements.

More recently, the federal disclosure rules have been adapted for use by several states where energy

companies are drilling and hydraulically fracturing tens of thousands of new wells, including in Colorado, Texas, Oklahoma and Montana.

Christine M. Sanchez, a spokeswoman for the Society of Chemical Manufacturers and Affiliates, a Washington, D.C.-based industry group, says the confidentiality provision “seems to be working well for all stakeholders.”

“It strikes an important balance between protecting proprietary information about a company’s intellectual property while making it available to specific persons for specific reasons,” she said.

Travis Windle, a spokesman for the industry’s Marcellus Shale Coalition, says it’s “very telling” and “sad” that fracking opponents blame gas drillers for a law used nationally since the mid-1980s.

While some doctors are upset over the confidentiality provision, experts say the behind-the-scenes funding cut could hurt public health even more.

Corbett’s own Marcellus Shale Advisory Commission recommended last summer that the Health Department create a first-of-its-kind population-based health registry to follow residents living within a mile of gas drilling and production sites.

Such a registry could reveal patterns of illness near natural gas development, provide data on any toxic exposures, and ultimately help researchers draw conclusions about drilling and public health. Without one, health professionals and the public can only guess how much, if at all, drilling affects residents.

The House version of the bill gave the Health Department up to \$2 million annually for new research and for a statewide registry, a top agency priority. But the money was quietly stripped during last-minute negotiations between Republican leaders in the House and Senate and the Corbett administration.

A Senate negotiator said the Health Department didn’t have a good plan for the registry. That claim is ridiculed by public health experts who note the state has run a cancer registry since 1985.

For now, all Janet McIntyre knows is that two doctors have raised alarms since tests showed traces of chemicals in her well water. She lives in one of 10 households near Connoquenessing, north of Pittsburgh, where residents believe nearby drilling has affected their water. State and industry experts say tests have shown the water is fine.

“Their opinion on the whole thing is don’t drink the water or use it for anything,” she said of the doctors’ advice. McIntyre didn’t disclose her medical conditions and says she can’t be sure that nearby drilling caused them. But she says her health has been improving since she stopped drinking the well water.

Dr. Amelia Pare, a plastic surgeon in McMurray, southwest of Pittsburgh, is among the physicians clamoring for more study.

Pare said she’s seen several patients who developed lesions too big for a dermatologist to cut away — lesions, later found to be benign, that grew back. She suspects those patients — who live in one neighborhood near natural gas compressor stations and open-air chemical ponds that store toxic drilling waste — were exposed to something. But she can’t be sure.

“Doctors are not really equipped to understand how to handle this,” Pare said.

“All I know is people are sick, they’re having spots on their face, they’re not getting better, and it doesn’t seem like anyone around here is equipped to help them.”

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Rubinkam reported from Allentown, Pa. Associated Press writer Marc Levy in Harrisburg contributed to this story.

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