



Notes from Your Licensing Board

Maine Board of Licensure in Medicine

Winter 2012

This issue reports the adverse licensing actions taken by the Board of Licensure in Medicine in 2011

Transformation: strategies to manage today's healthcare challenges

During the course of the year, the Board sees many complaints involving "disruptive physicians." While disruptive physicians' behavior may or may not rise to a level of discipline, it does affect patient care. Here is one Maine physician's story about being a disruptive physician and his/her experience in proactively trying to change.

I used to be a "disruptive physician." Because of my behavior I lost some patients, was called before my hospital's executive committee and was reported to the Board of Medicine. When I started practice many years ago, bad behavior was tolerated. Today it is not. Patients, hospitals, medical groups and society as a whole all now demand that we physicians be competent, available and friendly.

I heard about a three-day course for disruptive physicians offered by the Professional Renewal Center. I signed up for their program in Chicago. There are similar courses in Florida, Tennessee and California. My group included a cardiac surgeon, a thoracic surgeon, a cardiologist and an interventional radiologist. We all had problems caused by high stress: demanding surgery, late night emergencies, inadequately trained staff, unavailable equipment, etc. Our course instructors taught us how to deal with these tough situations in a "non-disruptive" manner. I'd like to share some of the things I learned.

The instructors taught us that the brain has an intellectual side and an emo-

tional side. In college, medical school and residency, and even in practice, we typically use the intellectual half. The emotional side is largely ignored. This gets us into trouble because we are not skilled in using our emotions in a productive way. They taught us that emotions are tools that can be used productively or poorly. They showed us how to use our emotions to create a team—to be a coach; to say, for example, that a situation may be bad but we can work through it together. It's a better approach than yelling at staff, making an enemy and getting written up!

We were reminded that, as well compensated physicians, it's our job to handle the tough, challenging situations even at 2 o'clock in the morning. We were also taught to recognize what situations trigger our anger and to anticipate them. It's okay to feel angry, but you should not immediately take it out on the staff who happen to be there. Deal with it later. From the hospital's perspective, it matters what you say and do, and the way you say and do these things can be just as important. For example, it's okay to be assertive but not okay to be aggressive.

The course stressed that hospital care is not just about the doctor and patient. The hospitalized patient is in a large, complex system that includes nurses, technicians, therapists and administrators all of whom have their respective responsibilities to help care for the patient. It's a team taking care of the

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Case Study : Chaperones

The Board recently received a complaint from a pregnant patient. The patient stated she thought she had a yeast infection and called her physician's office. Her normal provider was not available and she was seen by a covering physician. The patient stated the physician told her that he was going to check it out, pulled down her pants, and began probing without explaining what he was doing. The patient stated a chaperone was not in the room.

The physician stated he uses a chaperone for all internal examinations, but felt it was up to the patient to decide if she wanted a chaperone for a brief external examination. The physician stated he asked the patient if she wanted a chaperone and believed she indicated no with her head. The physician stated he told the patient he would lower her pants, did so, and performed a brief examination to check for redness, scratching or other irritation. The physician stated he describes what he is doing so patients will understand what is happening.

Although the Board was unable to determine exactly what took place, the case serves as a good example of perception vs. reality. Both parties to the complaint experienced a very different encounter. It is a well known fact that

this can and often does occur. A chaperone can provide some protection to both the patient and the physician.

In this case, the physician made some reasonable proactive changes to his practice. They included: (1) the use of a chaperone for any examination below the pubic symphysis; (2) the use of a chaperone with patients seen in coverage; (3) a focus on making an extra effort to connect with patients seen in coverage; and (4) obtaining a verbal response from patients for any yes or no questions.

The Board appreciates the simple steps taken by the physician to improve his practice and as a result, dismissed the complaint. The Board recommends that all licensees continually look for ways to improve their practice. The Board encourages providers to proactively implement improvements that protect the health and well being of patients before an issue arises that forces you to reconsider how you practice.

In addition, regardless of the patient's or physician's gender, the Board suggests the use of a chaperone for any examination of a sensitive nature.

Revocation, Surrender, Suspension and License Denials

BOTEZAN, KHRISTINE C., M.D. 06/15/11

On April 12, 2011 the Board voted to preliminarily deny the licensee's application for a temporary Maine medical license. The licensee did not appeal the preliminary denial and it became final effective June 15, 2011. The action was based on fraud or deceit in obtaining a license.

CHARETTE, DEBORAH J., P.A.-C [License # PA-862] 03/08/11

By Consent Agreement the licensee agreed to withdraw her Maine physician's assistant license while under investigation. This action is based on alleged substance abuse issues.

DORN, JOHN M., M.D. [License # 017429] 05/10/11

The licensee admits that the Board has sufficient evidence from which it could reasonably conclude that he: a) failed to disclose on his application for licensure that he engaged in a prior sexual boundary violation; b) committed boundary violations with regard to his treatment of the patients in complaint numbers CR 09-439 and CR 10-099; and c) engaged in inappropriate conduct with a patient by attempting to engage in a romantic and sexual relationship. The licensee agrees to accept the following discipline: 1) a reprimand and 2) the immediate and permanent revocation of his Maine medical license effective May 10, 2011. This action is based on unprofessional conduct.

DORN, JOHN M., M.D. [License # 017429] 04/12/11

Following receipt of information that Dr. Dorn was allegedly having an inappropriate relationship with a patient, the Board imposed a thirty (30) day summary suspension of Dr. Dorn's Maine medical license because his continued licensure and ability to treat patients placed the mental and physical safety of his patients in immediate jeopardy.

FALLON, PATRICK J., M.D. [License # 013805] 05/10/11

The licensee admits that the Board has sufficient evidence from which it could reasonably conclude the he engaged in unprofessional conduct by: a) engaging in an inappropriate relationship with a patient, and b) providing the Board with false information in his response to the complaint. The licensee agrees to accept the following discipline: 1) a reprimand; 2) a fine of ten thousand dollars and zero cents (\$10,000.00). However, payment of four thousand dollars and zero cents (\$4,000.00) is suspended so long as the licensee complies with all of the terms and conditions of this Consent Agreement; 3) a license suspension of thirty (30) days commencing upon the execution of the Consent Agreement; and 4) a license probation for five (5) years subject to conditions as outlined in the Consent Agreement. This action is based on unprofessional conduct.

JOACHIM, DAN W., M.D. [License # 018082] 08/17/11

The licensee agrees to the following disposition: the licensee does not admit or acknowledge any impropriety or wrong-doing or any violation of federal or state law. However, the licensee agrees that, if true, his receipt and possession of sexually explicit visual depictions of child pornography in violation of federal law could constitute unprofessional conduct and be grounds for discipline of his Maine medical licensee. As discipline, the licensee agrees to the immediate and voluntary surrender of his Maine medical license effective 08/17/11.

MOFFAT, MITCHELL G., M.D 01/11/11

At the conclusion of an Adjudicatory Hearing held on January 11, 2011 the Board voted to deny the licensee's appeal of the preliminary denial of his application for a permanent Maine medical license. This action was based on unprofessional conduct.

MOORE, MARYANNE W., M.D. [License # 015953] 04/12/11

The licensee admits that the Board has evidence from which it could conclude that she engaged in habitual substance abuse that is foreseeably likely to result in her performing services in a manner that endangers the health or safety of patients. The licensee agrees to the immediate and voluntary surrender of her Maine medical license. This action is based on alcohol abuse issues.

TOTO, TIMOTHY P.A.-C [License # PA-351] 03/08/11

On March 8, 2011, the Board reviewed a request from the licensee to withdraw his appeal of the Board's preliminary denial of his application to reinstate his Maine physician's assistant license. The preliminary denial was based upon the applicant's lack of licensure or active practice as a physician assistant in another U.S. State or Canada within the past five to six years. The Board granted the applicant's request to withdraw his appeal. The Board's final denial of the applicant's application for reinstatement of his Maine physician's assistant license became effective March 8, 2011.

Warnings and Reprimands

WERBLIN, JOSHUA P., M.D. [License # TD101061] 06/01/11

The licensee admits that the Board has sufficient evidence from which it could reasonably conclude that he: a) self prescribed controlled drugs; b) provided medical treatment, including prescribing controlled drugs to a patient with whom he had a close, personal relationship; and c) failed to create and maintain appropriate medical records regarding his treatment the patient. The licensee agrees to: 1) accept a reprimand; 2) pay a monetary penalty of four thousand dollars and zero cents (\$4,000.00), two thousand dollars and zero cents (\$2,000.00) of which will be suspended so long as the licensee complies with the terms of this agreement; and 3) successfully complete courses pre-approved by the Board regarding Opioid prescribing; ethics and boundaries; and medical record-keeping within twelve (12) months. This action is based on unprofessional conduct.

*For complete information on these
or any disciplinary actions, visit
www.docboard.org/me/discipline/dw_actions.html*

Restricted Licenses

FOLKEMER, CARL T., M.D. [License # 018400] 07/21/11

The licensee admits that his recent discipline by the Maryland Board of Physicians, together with the facts and circumstances underlying that discipline, constitutes unprofessional conduct. As discipline for the conduct, the licensee agrees to the following terms and conditions: 1) within six (6) months of the date of execution of this Consent Agreement, the licensee shall successfully complete a Board-approved course in medical record-keeping; 2) within one (1) year of the date of execution of this Consent Agreement, the licensee shall successfully complete a course of significant duration in the following subject areas: a) appropriate prescribing practices involving opioid medications and benzodiazepines; and b) appropriate pain management practices; and 3) a three (3) year license probation commencing upon his active practice of medicine in the State of Maine. This action is based on unprofessional conduct.

HARDING, LESLIE C., M.D. [License # MD9446] 12/13/11

The licensee agrees to the following: 1) accept a reprimand; 2) reimburse the Board Three Hundred Dollars and Zero Cents (\$300.00) as costs of investigation; and 3) accept the following license restriction: the licensee shall immediately cease prescribing controlled medications (i.e. narcotics, including all opiates and opioids) for the treatment of chronic pain except for (i) patients in skilled nursing facilities or long term care facilities; (ii) patients in hospice care; or (iii) patients with metastatic cancer. The licensee may prescribe controlled substances for no more than ten (10) consecutive days to treat acute conditions. This action was based on inappropriate prescribing practices.

LEONG, KENG CHEONG M.D. [License # 007235] 05/10/11

The licensee concedes that the Board has sufficient evidence from which it could conclude that he engaged in unprofessional conduct by prescribing narcotic medication to patients without conducting and documenting appropriate medical history, physical examination and treatment planning. The licensee agrees to accept the following discipline: 1) a reprimand; 2) the licensee shall immediately cease practicing general medicine, a medical specialty for which he has limited medical training and limit his practice of medicine only to office-based gynecology; 3) the licensee shall immediately cease prescribing any controlled medications for the treatment of chronic pain (i.e. narcotics, benzodiazepines and hypnotics); and 4) the licensee shall not prescribe controlled substances for more than ten (10) consecutive days to treat gynecology patients for acute pain/acute anxiety conditions. This action is based on unprofessional conduct.

Monitoring

NESBIT, ALEXANDRIA E., P.A.-C [License # PA-893] 07/12/11

The licensee admits that the Board has sufficient evidence from which it could reasonably conclude that the licensee engaged in habitual substance abuse that was foreseeably likely to result in her performing services in a manner that endangered the health or safety of patients. The licensee agrees to accept the following discipline: the licensee's Maine physician's assistant license will be placed on probation for five (5) years. During that time the licensee will be subject to substance abuse monitoring. This action is based on substance abuse issues.

NETHALA, VENKATRAM, M.D. [License # 018751] 03/16/11

The Board granted the licensee a Conditional Maine medical license. The licensee agrees that for the duration of this Consent Agreement he will be required to undergo some level of substance abuse monitoring.

WIEGAND, TIMOTHY J., M.D. [License # MD17860] 12/13/11

The licensee agrees to the following: 1) accept a reprimand; 2) pay a fine of three thousand dollars and zero cents (\$3,000.00). Payment of one half of the fine (\$1,500.00) is suspended so long as the licensee complies with the terms of the Consent Agreement; and 3) the licensee's Maine medical license will be placed on probation for five (5) years. During that time the licensee will be subject to substance abuse monitoring. This action was based on inappropriate prescribing practices.

Transformation

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patient and the MD is just part of the team. For the hospital, no one person is more important than the others. If the physician is perceived not to be a team player, he may be considered to be disruptive. He can be replaced. It's not like the old days—times have changed.

We were taught relaxation techniques. This could be briefly meditating or doing some deep breathing before a procedure. Take a breath if things are going poorly during a case so that the team can get back on track. Take time to think before acting. Consider what you are really trying to accomplish. Remember that as physicians we are "on stage" and are being watched and evaluated by others for what we say and do.

We were shown how to negotiate with administrators. If there's an expensive piece of equipment you need, request a meeting and be prepared to tell how it will benefit the hospital, listen to and acknowledge the hospital's concerns, be assertive but not aggressive in describing why you need it, and be prepared to accept what is offered, even if it's less than the request.

It was suggested that we find a "mentor." That could be a close colleague with whom you can share your feelings and frustrations. It's better to ventilate to a good friend in private than to the nurse taking care of your patient.

I found this course to be invaluable and I wish it had been available years ago. There was a lot covered in three days. We did some role playing, which was very helpful and instructive. I signed up for this course on the advice of an attorney. Sometimes it is mandated by a hospital or a state medical board. I think all physicians could benefit from it; for those of us who are targeted as "disruptive" it is essential.

Maine Board of Licensure in Medicine
161 Capitol Street
137 State House Station
Augusta, ME 04333-0137

ph: 207-287-3601
fx: 207-287-6590

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Physician Assistant Advisory Committee Opening

An MD position is available on the Board's Physician Assistant Advisory Committee. Committee members are normally appointed by the Board for terms of 4 years. The Committee reviews matters pertaining to the medical practice of physician assistants, including complaints, and makes recommendations to the Board. For consideration, please forward a C.V. and letter of interest to: Assistant Executive Director, Maine Board of Medicine, 137 State House Station, Augusta, ME 04333.

Notify the Board of Business and Home Address Changes Immediately

Many people experience problems at renewal time because they have neglected to notify the Board of an address change. To prevent delays or even loss of license due to lapse, notify the Board immediately of any change in your addresses.

To verify that the Board has your correct addresses on file, visit either of the following sites:

www.maine.gov/md or

www.docboard.org/me/me_home.htm

and click on "Find a Licensee" in the lower left.

If the address is incorrect, simply send a signed note with changes to the Board or submit the new information online at www.maine.gov/online/doclicensing/.

Confidential Help Available

The Medical Professionals Health Program: Confidential professional help for substance abuse is available by calling **(207) 623-9266**. For more information visit the MPHP website at www.mainemed.com/health/index.php or send an email to mphp@mainemed.com.

