



# Notes from Your Licensing Board

Maine Board of Licensure in Medicine Summer 2011

## Professional Boundary Issues in Your Practice

A fundamental aspect of providing quality healthcare is trust in doctor-patient relationships. Boundary violations (unilateral and damaging actions) erode trust and are a leading cause of malpractice litigation, significant fines, penalties, license suspensions and revocations. Countless books, journal articles and opinion essays have been written in an effort to educate physicians and patients about the dangers that lie on the other side of professional boundary lines. We will provide here a review of common concerns as a useful reminder.

### Relationship with the patient

Who can you treat? Clearly not someone with whom you are romantically involved. Nor should you start dating someone who has been your patient in the past as the power differential and transference precludes

a balanced relationship. These are obvious examples, but it is not always easy to determine the nature and appropriateness of other forms of relationship. Starting a business venture or making a barter arrangement with a patient who can't afford treatment carries the risk of issues arising which could strain the doctor-patient relationship. Similarly, accepting money, loans or gifts from patients (or vice-versa) could undermine the trust and underscores the inherent power discrepancy between physicians and patients.

Physicians should give careful consideration to treating a close friend or colleague. When a provider feels a personal interest in the outcome of a patient, he or she risks clouded judgment and unjust or unfair treatment. Examples include performing unnecessary tests, moving a friend to

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## Mobile phone apps you may not want to live without

An increasing number of physicians are using smartphones to become more efficient at work. Anecdotal polls and surveys often peg the number at around 50 percent. The growing popularity of the Apple iPhone's App Store (with competing companies like BlackBerry, Google and Microsoft creating similar concepts) means these devices are being used for more than just phone calls, emails and calendars. These powerful and inexpensive applications turn smartphones into something that resembles mini computers. However, the sheer number of applications available (Apple alone has more than 1,800 medical apps) can be daunting enough to intimidate even the most savvy technology guru. To help get you started, here are just a few of the more popular apps developed with physicians in mind.

### Epocrates (cross platform)

This is a comprehensive app that provides the user with information on a variety of topics including drugs, diseases, lab tests, calculations and protocols. The app also includes a bank of high quality diagrams, as well as treatment options, follow-up and patient instructions.

### Calculate by QxMD (cross platform)

This app contains a collection of medical calculators, varied enough to meet the needs of most generalists and students. Citations and PubMed links have also been included for those needing medical literature references.

### MedScape (cross platform)

This is another all-inclusive app that allows the user to access information about more than 7,000 medications and drug interactions; over 3,200 diseases, conditions and procedures; and a useful search function.

### MedPage Today (cross platform)

This daily news app can be customized to deliver only the articles and updates that are relevant to the interests and preferences specified by the user. In addition to reading articles, users can also participate in CME activities in text, video and audio formats.

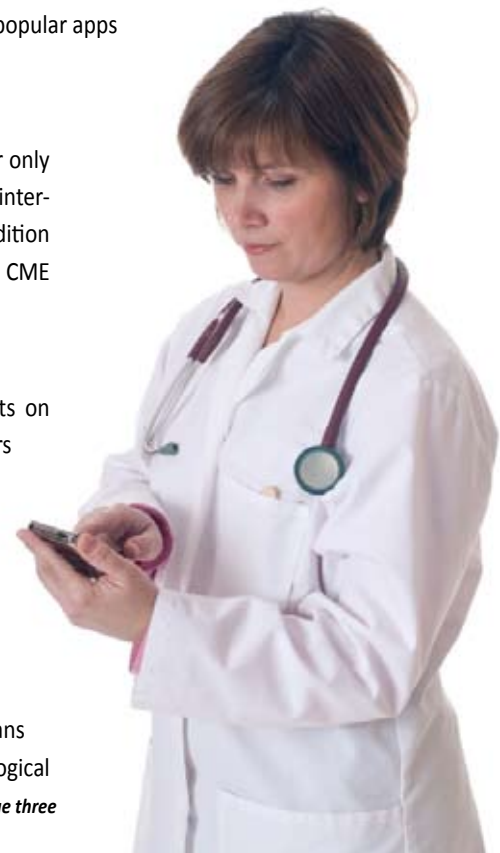
### Calorie Counter by FatSecret (cross platform)

Physicians who find they often counsel patients on diet and exercise will find this app useful. Users can look up calorie information on almost any type of food via the search function, and can even scan barcodes on food packaging. The app also includes food and exercise diaries, and a weight tracker.

### VisualDX (iPhone and Android)

This is an easy-to-use app that helps physicians diagnose more than 1,000 different dermatological

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# Professional Boundary Issues

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the top of a waiting list, avoiding painful procedures, or prescribing unnecessary drugs. Careful judgment and defined boundaries are needed when treating members of the same family. If, for example, a young teenager shares information about themselves that could be potentially dangerous, or if an elderly parent makes end of life requests that seem out-of-character, providers may be tempted to share this with another family member when they are seen in the office. Certainly insuring the safety of your patients is important yet must be balanced with confidentiality requirements and who would be best able to intervene in a dangerous situation.

In rural settings treating someone you know personally is often unavoidable and requires shared decision making. In cases where you must treat a friend, have a frank, open discussion with the patient about your inability to be entirely objective. The conversation should include all of the alternative healthcare options available to your friend or colleague.

### Relationship with outside forces

The physician-patient relationship can also be affected by outside forces such as insurance providers, hospitals or other healthcare facilities, the judicial system and even the patient's employer. Each of these forces can potentially cross professional boundary lines, especially those

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drawn to ensure the needs of the patient remain paramount. Productivity is a standard concern in these financially difficult times and your task of providing care that is individualized and attentive can easily be eroded by the business of medicine. Finding ways to provide such balanced care will also reduce your risk of burnout and making errors.

### Final thoughts

There are many ways boundaries serve to maintain a professional relationship. No list can ever cover all the situations that may arise. If you have any doubts it is better to wait awhile and discuss the situation with a trusted peer, legal expert or your health system ethics committee before acting. Most importantly, work to increase your awareness of where you are emotionally vulnerable to react rather than be thoughtful. Such proactive awareness is the first step in maintaining intact boundaries and professional relationships. These efforts are well worthwhile for your own well being and for your career.

## Case Studies

*The following are case studies of physicians who have violated professional relationship boundaries, standards of professionalism and ethics.*

### Case 1

In 2008, the Board of Licensure in Medicine received a report from a Maine hospital that alleged one of their physicians was engaged in a personal relationship with a patient. The physician was the primary care provider for both the patient and the patient's spouse.

After further investigation, the Board initiated a formal complaint against the physician's medical license. An adjudicatory hearing was scheduled and resulted in a negotiated consent agreement, which included a reprimand, monetary fine, license suspension, probation and restrictions on the physician's medical license.

### Case 2

In 2007, the Board received a complaint filed against Dr. A's medical license. The complaint alleged he had written a large number of prescriptions for controlled substances for his girlfriend, who was under the care of another physician. The Board held an informal conference, at which time the physician offered to surrender his Maine medical license. The Board accepted his proffered li-

cense and reported the matter to the National Practitioner Data Bank.

In 2008, the physician applied for reinstatement of his medical license. The Board voted to reinstate his license with a negotiated consent agreement that imposed restrictions on his medical license, including revocation of his DEA license.

### Case 3

In 2010, the Board received a complaint from a man who alleged that his wife's physician was having an inappropriate relationship with the man's wife. The Board received GPS and telephone records, and then subpoenaed cell phone records. After reviewing the evidence, the physician admitted that he had pursued a relationship with this patient. The complaint was resolved with a negotiated consent agreement. The physician received a reprimand, a \$10,000 fine, 5-year license probation, 30-day license suspension and a mandatory monitor for his medical practice.

*Many complaints that come before the Board result from the disregard of professional boundaries. Boundary violations, which can take many forms, cause great harm and risk for both the patient and the physician. As these case studies illustrate, these violations can also result in severe consequences for one's medical career.*

# Guidelines for Discharging Patients Against Medical Advice

Approximately 1-2% of all hospital discharges are done against medical advice, or AMA. Studies have shown that patients discharged AMA have higher readmission rates and potentially suffer increased risk for serious health consequences. Regardless of these increased risks, healthcare providers must recognize that patients always have the right to refuse treatment. However, there are steps physicians can take which will help decrease the risks associated with AMA.

## Decision-making

Before any patient is discharged AMA, it is essential that the healthcare team make a careful and thorough assessment of the patient's decision-making ability. It is also helpful to assess the patient's health literacy with regard to his or her diagnosis and treatment recommendations. In order to make an informed decision regarding treatment, the patient must fully understand the risks and consequences of refusing care.

## Rationale for leaving

During this assessment, the patient should be given every opportunity to ask questions and have their questions answered. The healthcare team should also determine the patient's reason for wanting to leave. In some cases, the patient is focused on obligations at home like children or pets, or may have any number of other dilemmas which could be resolved with the help of other staff members or social workers.

## Communication

Throughout the process, it is absolutely essential to communicate with the patient's entire healthcare team. This includes the primary physician, any attending or on-call physicians, nurses, social workers and even providers at other facilities who could supply information that may be critical in assessing the patient's decision-making ability or overall health literacy.

## Discharge and follow-up

If the patient is found to be fully competent and able to make an informed decision about treatment, his or her desire to leave the hospital should be granted. It is worth emphasizing again the importance of ensuring the patient is making an informed decision with adequate un-

derstanding of realistic risks. This requires a detailed discussion, not a quick "you could die if you leave" statement. The discharging physician is also responsible for providing appropriate patient education and discharge instructions, as well as arranging for follow-up care. These arrangements could include a phone call or home visit, and a prescription. If possible, the hospital pharmacy should fill the prescription before the patient leaves. However, hospital pharmacies in many situations cannot legally dispense outpatient medications, in which case appropriate prescriptions should always be provided to patients leaving against medical advice. It is also a good idea to provide a written summary of the hospital stay, which would be useful if the patient ends up at another healthcare facility down the road.

## Documentation

Although it should go without saying, it is valuable to repeat it here: this entire process should be documented. Appropriate clinical care and discharge instructions supported by comprehensive documentation reduce the opportunity for the patient to subsequently prove a claim of negligence.

Physicians should document:

- the patient's decision-making capacity
- the patient understands the risk of being discharged AMA
- the patient's decision to be discharged against medical advice
- the specific care and treatment refused by the patient
- the patient education provided and the opportunities the patient was given to ask questions, what those questions were and the answers provided
- the follow-up care offered to the patient
- the discharge instructions provided
- the offer to return for care at any time

These steps help illustrate the usefulness of an established protocol that the entire healthcare team can follow. Organizations should develop a comprehensive policy and procedure that provides guidance for discharging patients against medical advice that is approved by the medical staff and monitored through a quality-improvement process. Requiring a standardized protocol to be followed for all patients leaving AMA will reduce the risk of omitting key components of the patient assessment and appropriate discharge.

*Much of the information for this article was provided by Medical Mutual Insurance Company of Maine.*

## Mobile Phone Apps

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diseases and skin conditions. The user can input symptoms to get a differential diagnosis ranked by likelihood and can also access a huge image gallery, and testing and management suggestions.

### ECG Guide by QxMD (iPhone)

This comprehensive app helps physicians interpret ECGs. It provides in-depth information on ECG interpretation, ventricular/atrial enlargement, assessment of ischaemia, approach to arrhythmia, heart block and various other abnormalities. The app includes 12-lead ECG samples, detailed graphs and tables.

### Visible Body (iPad)

In this application, the user taps the thumbnail of the desired system and can then manipulate the very detailed image of that particular part of the human body. It also includes definitions for each part of the structure.

### Fuch's Pediatric i-Pocketcards (iPhone and iPad)

These popular pocketcards have been successfully transformed into a mobile app and would be best used as a quick reference guide.

For detailed reviews on an exhaustive list of apps available for all platforms, visit [www.imedicalapps.com](http://www.imedicalapps.com).

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## Notice on 21-Day Temporary Disability Parking Permits

Recently, the Maine Legislature passed L.D. 456 (P.L. 2011, Chapter 117), An Act Relating to Temporary Disability Parking Permits. This new law establishes a 21-day temporary disability parking permit for use by individuals eligible for disability parking placards and plates pursuant to 29-A M.R.S.A. section 521. This 21-day permit will be issued directly to patients by those medical professionals authorized to certify disability parking applications and can be used while the patient is waiting to receive their permanent placard or plate from BMV.

The placards will be available on or before October 1, 2011 at no fee to you.

If you are interested in providing these placards to your eligible patients, or for more information, please contact Vicki Lawry at [vicki.lawry@maine.gov](mailto:vicki.lawry@maine.gov), or by telephone at 624-9193.

To read the new law, visit [http://www.mainelegislature.org/legis/bills/display\\_ps.asp?LD=456&snum=125](http://www.mainelegislature.org/legis/bills/display_ps.asp?LD=456&snum=125).

## 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](http://www.maine.gov/md) or

[www.docboard.org/me/me\\_home.htm](http://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/](http://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](http://www.mainemed.com/health/index.php) or send an email to [mphp@mainemed.com](mailto:mphp@mainemed.com).