



Make a difference
MAINE
State Government

Fall 2007

Notes from your Licensing Board

Maine Board of Licensure in Medicine

FROM THE BOLIM FILES:

This section is meant to be educational for licensees. Cases are based on actual Board of Licensure in Medicine (BOLIM) complaints.

ACCURATE RECORDKEEPING - Essential for appropriate patient care.

When the Board reviews complaints one of the most important tools available is the medical record. Unfortunately, if the medical record is not properly recorded it raises more questions than answers. Below are three examples of cases where lack of documentation, or improper documentation became problematic.

Patient A filed a complaint alleging that he was not notified of alarming test results. The physician stated that the patient had originally been notified and refused to see a specialist. The physician stated that recommendations were made again a year later, and refused. In addition, the physician stated that the last and highest test result was not available the last time the patient was seen. A careful review showed that the record did not agree with the physician's response and the Board ordered an Informal Conference. At the Informal Conference, the physician was forthright about problems with documentation in the medical record and tracking of lab results. The physician also outlined changes that have been made to the practice to prevent mistakes and discussed the need to document anytime a recommendation is made that a patient refuses. After a long discussion the Board voted to dismiss the case based on the proactive changes the physician had instituted.

Patient B filed a complaint with the Board alleging that informed consent had not been given prior to a procedure. The complaint also alleged that after the procedure, while the patient was still under the influence of medication, she was asked to sign the informed consent form. In response to the complaint, the physician stated that there was an oversight and the form was not signed until after the procedure, but that this happens all the time and it does not really matter because its just a piece of paper and he had talked to the patient prior to the procedure. The Board disagreed with two of the physician's statements. First, the informed consent document is a valuable tool that must always be signed before a procedure is performed. Such blatant disregard shows contempt for a process meant to protect both patients and physicians. Second, there was no documentation in the record of a discussion between the physician and patient about the risks and alternatives prior to the procedure. In this case, the Board held an Informal Conference, asked the licensee to create a new informed consent document, and issued a Letter of Guidance.

Patient C filed a complaint alleging that the physician charged the patient fees that were covered by insurance. At about the same time the Board also received information from another physician who expressed concern at the records and treatment of five other patients. The Board sent all of the records, medical and financial, for an outside review. (cont'd on page 2)

In this issue:

From the BOLIM files: - 1
Accurate Recordkeeping—Essential for appropriate patient care.

FROM THE BOLIM FILES: (cont'd.) 2

New laws for 2007 2

Board will hire Staff Medical Director 3

Note From The Drug Enforcement Administration (DEA) 3

Online M.D. License Renewal is Up and Running 3

Moving, Leaving Practice or Retiring ? 3

**ONLINE M.D.
LICENSE
RENEWAL IS UP
AND RUNNING
(Read all about it
on Page 3!)**

FROM THE BOLIM FILES: (cont'd.)

The reviewer found that the medical record did not meet recognized accepted standards for medical record documentation or billing documentation. In addition, the review found that the record did not support the physician's billing practices. After review of the information the Board voted to order an Adjudicatory Hearing and the case was ultimately settled by Consent Agreement. In the Consent Agreement the physician accepted a reprimand and five years probation, agreed to take two Board approved courses, and reimburse the original patient.

These three examples cover a wide array of medical documentation including informed consent, patient refusals, tracking of labs, and appropriate overall documentation. Each point out weaknesses in a system designed to protect both the patient and the physician. Proper documentation allows future physicians quick and easy access to a patient's history, allowing them to make the best and most timely decisions possible. It also protects physicians by clearly spelling out what took place if questions arise in the future. So, as you are documenting patient visits a good rule of thumb is, "If it isn't in the record, it didn't happen."

NEW LAWS FOR 2007:

ADDITIONS OR CHANGES TO THE LAWS REGULATING MEDICINE ARE IN EFFECT

- **PHYSICIANS MUST REPORT UNPROFESSIONAL CONDUCT:** Physicians and professional competence committees must now report unprofessional conduct by a physician to the Board, just as hospitals have been required for some time. Mandatory reports by physicians, health care providers and competence reviewers are now the same. (PL Chapter 380)
- **DISRUPTIVE BEHAVIOR DEFINED:** As grounds for discipline, disruptive behavior is defined as "aberrant behavior that interferes with or is likely to interfere with the delivery of care". (PL Chapter 380)
- **ADMINISTRATIVE LICENSE CREATED:** For situations where a license limited to "administrative medicine" but not clinical practice is appropriate this new type is available. A new rule to provide detail is pending. (PL Chapter 380)
- **REPORTING DRUG DIVERSION BY PATIENT TO LAW ENFORCEMENT:** Health care practitioners are now legally protected and may report incidents of potential drug diversion to law enforcement. (PL Chapter 382)
- **HIV TESTING AND COUNSELING:** Preparation for an HIV test is simplified from written informed consent to "requiring a patient's knowledge and understanding that an HIV test is planned." Pre-test counseling is not required. A positive test result must be confidentially given through personal contact. (PL Chapter 93)
- **DISCLOSURE OF INFORMATION TO FAMILY MEMBERS OR CARETAKERS:** You may disclose "protected health information" to family members or caretakers in certain circumstances and to "avert a serious and imminent threat to health or safety". (PL Chapter 310)
- **TO REMOVE YOUR NAME AS A SUBSCRIBER FROM MARKETING LISTS OF PRESCRIBERS:** An "opt out" process for physicians, PAs and NPs is available through the Maine Health Data Organization. To remove your name from lists generated by pharmacies and sold to the public, register online at:
<http://mhdo.maine.gov/imhdo/prescriberoptoutintro.aspx> (PL Chapter 460).
- **INVOLUNTARY PSYCHIATRIC MEDICATION PROTOCOL:** A legal protocol for involuntary medication of a psychiatric patient who poses a danger is established in this law. (PL Chapter 466)

Detail language for these laws is available online by referencing the Public Law (PL) Chapter at:

<http://janus.state.me.us/legis/ros/lom/LOM123rd/LOM123Directory.htm>

BOARD TO HIRE STAFF MEDICAL DIRECTOR

As part of the biannual budgeting process, the Board has been authorized to add a part time medical director to its staff. This contract position will provide beneficial clinical perspective early in the complaint investigation and analysis process. The medical director will assist in determining the need for independent expert witness review of complaints, as well as serving as a direct resource to board members. Recruitment is ongoing.

NOTE FROM THE DRUG ENFORCEMENT ADMINISTRATION (DEA)

Recently there has been some confusion concerning whether a practitioner can use a digital signature on a prescription for controlled drugs (Schedule II-V). **Federal regulations do not allow for this.**

In Section 1306.05(a) of the Federal Code of Regulations, Manner of Issuance of a Prescription, the regulations specifically advise that ***“A practitioner may sign a prescription in the same manner as he would sign a check or legal document. Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner.”***

ONLINE M.D. LICENSE RENEWAL IS UP AND RUNNING!

Now renewing your license will be as easy as sitting down at your computer and ordering from an online catalog with your credit card.

Notification of “Time to Renew”

Around 60 days before the M.D.’s license is due for renewal, the Board will mail a card to the licensee advising that the license is due to expire. The card will provide an internet address where the license may be renewed online. The card will also offer a web address at which the renewal application may be downloaded and printed, or will invite the licensee to return the card to the Board and request that the Board mail a renewal application to the licensee.

Following your successful login, much of your personal and professional information will be extracted from the Board’s database and displayed on the screen where you can review it for correctness and change it if needed. The Board will not permit “online” changes of name, social security number or date of birth. To make such changes, contact the Board at (207) 287-3782 for further instructions.

Renewal Certificate

Following a successful online renewal, which will include reporting of required CME, the Board will mail the renewed wall license and wallet card to the physician. Physicians who successfully renew online and have no adverse actions to report will enjoy accelerated renewal of their medical license.

MOVING, LEAVING PRACTICE, OR RETIRING?

When a physician changes practice location, closes a practice, or retires, patients are often left in a quandary regarding their medical records. Despite the best effort of physicians to inform patients of impending changes and what steps patients need to take to retrieve their records, the word never reaches everyone. Those patients who wait and then realize they can't find their records often turn to the Board for help. In these situations Board staff often attempt to contact the physician and obtain information regarding where the records are stored and how patients can access them. This process can often be anxiety provoking for physicians who receive a message on their answering machine asking them to contact the Board.

However, you have the ability to proactively contact the Board with the necessary information. When you notify patients of the change in your practice and how records can be obtained you can also notify the Board. A notation will be made and, when patients call looking for records, they will be directed to the appropriate place. This proactive step helps the Board provide better customer service to patients and means you are less likely to get a message starting, "Hi. I'm calling from the Board of Medicine..."



**Maine Board of Licensure in
Medicine**

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Notify the Board of 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 mailing address.

REMEMBER THE CONTACT ADDRESS AND PHONE NUMBER YOU INDICATE ON YOUR RENEWAL, "AS YOUR PREFERRED CONTACT ADDRESS", WILL BE POSTED ON THE BOARD'S WEBSITE.

Check out our website at http://www.docboard.org/me/me_home.htm to verify that the Board has your correct mailing address on file. If the address is incorrect, simply send a signed note with changes to the Board.

The Committee on Physician Health: Confidential professional help for substance abuse is available by contacting Dr. David J. Simmons at 622-3374 or 623-9266