



STATE OF NEW HAMPSHIRE BOARD OF MEDICINE NEWSLETTER

SUMMER/FALL 2012

Prescription Monitoring Program –NH Joins the Majority of States in Enacting Legislation Establishing a Program

After years of debate regarding the establishment of a prescription monitoring program, the NH legislature passed a bill this spring to create a centralized database to assist practitioners when prescribing controlled substances. At the time that the legislation passed, NH was only one of two states – Missouri was the other – that did not have such a program.

This summer and fall an Advisory Council will meet to work toward getting the program up and running in the State of New Hampshire. Members include represent from several licensing boards including medicine, pharmacy, veterinary medicine and nursing as well as members of the Medical and Dental Societies and other health care advocates. Funded by grants from the federal government for the first two years, the Prescription Monitoring Program database will assist practitioners in determining whether patients legitimately need prescriptions that they are seeking, or if they are “doctor-shopping” to obtain unneeded prescriptions. The centralized database that the legislation creates will allow practitioners access to pharmacy records and will greatly assist them in their prescribing practices.

For patients concerned about their confidential information being contained in a government database, the program will be HIPAA compliant and will be completely confidential.

The Board urges all practitioners to make use of the prescription monitoring database once it is functioning as it will be an important tool in helping to control patients in potential overuse and abuse of prescription drugs.

FYI: The law governing the Board of Medicine is found at RSA 329 and is known as the Medical Practice Act. The Board is also governed by administrative rules that guide the application of the statutes. The full text of the laws and rules can be found at the Board’s website at www.nh.gov/medicine/laws. Changes in the Board’s rules were highlighted in Summer/Fall 2011 edition of the newsletter. See the Winter 2011 edition of the newsletter for the recent changes to the Medical Practice Act. Both newsletters can also be found at www.nh.gov/medicine/publications.

What is an Unfounded Complaint?

In July 2009, the New Hampshire legislature amended the Medical Practice Act to create a new category to characterize a complaint called “unfounded”. Pursuant to RSA 329:17, XIII, if a licensee is investigated by the Board of Medicine through the Medical Review Subcommittee and the Board determines that there is no basis for the complaint because it: (1) does not fall within the jurisdiction of the board; (2) does not relate to the actions of the licensee or; (3) is determined to be frivolous, the Board can vote to find the complaint “unfounded”. In a “no further action” vote the Board determines that the licensee has not violated any statutes or rules in their action. However, if a complaint is voted as unfounded, three years later, it is as if the complaint had never been filed with the Board, allowing the licensee to have a clean slate. In a recent case, a licensee was named in a complaint, but only because he was the Medical Director at the facility where the patient received care. The licensee delivered no care to the patient and thus, the Board considered the case unfounded.

Board Says Farewell to Long-time MRSC and Board Member Dr. Nick Perencevich

Dr. Nick Perencevich, a surgeon from Concord, recently resigned from the Board of Medicine after serving six years on the MRSC and nearly three years on the Board. Dr. Perencevich has committed to take a one-year position in Rwanda joining a group of U.S. physicians who will train Rwandan residents and mentor Rwandan medical school faculty. While the Board will sorely miss Dr. Perencevich at its monthly meetings, it wishes him the best of luck during his assignment in Rwanda.

NEW LAW, PLEASE TAKE NOTE:

Pursuant to RSA329:16-f, II, all licensees shall provide the board with a copy of any notice of complaint, action for medical injury, or claim received from or disciplinary action taken in a jurisdiction outside of this state within 30 days of receipt of such notice or action.

Suggestions for Patient Care Improvement: Avoiding “Unnecessary” Abdominal CT

Reviewing cases of provider/patient interactions is the core of what the Board and Medical Review Subcommittee do, and at times lessons arise from these cases. The following is one such case as described by Dr. Perencevich. In these cases, the Board makes suggestions for improved patient communication and safety. Other cases may be found on the Board’s website. The Board also welcomes suggestions on patient care improvement. A recent case before the Medical Review Subcommittee (“MRSC”) and the Board of Medicine (“Board”) was a patient’s complaint about having an “unnecessary” abdominal CT looking for appendicitis in a teenage girl. The review showed that the physician did not provide the patient with any information about the radiation exposure from the CT. The expert reviewer noted that the radiation exposure is greater than the radiation exposure of over 100 chest x-rays. Over the last 5 years or so most emergency room physicians and other primary providers have become more knowledgeable about the degree of radiation

delivered during a CT and have advised patients of the degree of exposure and, down the road, potential risks of radiation. The Board believes the education around CT radiation exposure needs to be discussed and better documented in the medical record to protect the patient and the provider.

Have any suggestions on patient care improvements like the one featured in this newsletter? Have any ideas, suggestions or comments about the newsletter, email them to kathryn.bradley@nh.gov.

The Medical Review Subcommittee needs assistance from time to time in its review of the standard of care in its investigations of licensees. The work involved includes a complete review of medical records and the writing of an expert report on your findings. If you are interested in considering this opportunity (CME Category 2 credit may be available for the work), contact Dr. Douglas Black at (603)271-6930.

Board of Medicine Presentations

Members of the Board of Medicine have been travelling around the state speaking with medical staffs at various hospitals. If you would like some of our Board or MRSC members to come and speak at your medical staff meeting about the Board and its work, contact the Board’s Executive Director, Kathryn Bradley at 271-6985 or kathryn.bradley@nh.gov to arrange for a presentation at your next medical staff meeting.

Recent Disciplinary Action Taken by the Board

The following are the public disciplinary actions that were taken by the Board of Medicine between January 1, 2012 and August 15, 2012.

1/4/12 **Michael J. O’Connell, M.D.** The Board of Medicine approved a Settlement Agreement for Michael J. O’Connell, M.D. Dr. O’Connell has agreed to a permanent voluntary surrender of his

license to practice medicine to avoid further delay and expense of proceedings arising out of the certain allegations regarding improper relationships with former patients.

1/27/12 **Mark D. Weinreb, M.D.** The Board of Medicine issued an Order of Emergency Suspension and Notice of Hearing. The Board has received information indicating that the continued practice of medicine by Dr. Weinreb presently poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Weinreb's license to practice medicine pending a hearing that is scheduled for February 1, 2012.

2/2/12 **Waler H. Jacobs, M.D.** The Board of Medicine approved a Settlement Agreement for Walter H. Jacobs, M.D. On his 2004 renewal application, Dr. Jacobs failed to disclose that within the prior twelve months he had been the subject of investigations by the Massachusetts Board of Registration in Medicine. On license renewal applications submitted to the Board in 1992 and 1993, failed to provide written explanation for certain questions as expressly required by the language on the application. Dr. Jacobs is reprimanded and assessed an administrative fine in the amount of \$4,000.00.

2/6/12 **Bruce D. Latham, D.O.** The Board issued an Order in Furtherance of Settlement Agreement for Bruce D. Latham, D.O. Dr. Latham is required to follow all recommendations made by the Albany Assessment.

2/24/12 **Jonathan B. Warach, M.D.** The Board of Medicine issued an Order of Emergency Suspension and Notice of Hearing. The Board has received information indicating that the continued practice of medicine by Dr. Warach presently poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Warach's license to practice medicine pending a hearing that is scheduled for March 7, 2012.

3/8/12 **Michael A.H. Remar, M.D.** The Board of Medicine approved a Settlement Agreement for Michael A.H. Remar, M.D. The Board reviewed information pertaining to a trend of intra-operative complications and post-operative complications that

some of Dr. Remar's patients experienced. Dr. Remar is reprimanded and is required to complete an American College of Surgery Surgical Education and Self-Assessment Program 70-credit program or an equivalent CME program approved by the Board. Dr. Remar is assessed an administrative fine in the amount of \$2,000.00.

3/9/12 **Mark D. Weinreb, M.D.** The Board of Medicine approved a Preliminary Agreement for Practice Restrictions for Mark D. Weinreb, M.D. Dr. Weinreb has professional misconduct allegations pending before the Board. Dr. Weinreb voluntarily agrees not to practice medicine, not to write prescriptions, and not to treat or see patients in the State of New Hampshire until such time as the Board approves his return to practice.

3/9/12 **Jonathan B. Warach, M.D.** The Board of Medicine approved a Preliminary Agreement for Practice Restrictions for Jonathan B. Warach, M.D. Dr. Warach has professional misconduct allegations pending before the Board. Dr. Warach voluntarily agrees not to practice medicine, not to write prescriptions, and not to treat or see patients in the State of New Hampshire until such time as the Board approves his return to practice.

3/9/12 **Bruce D. Latham, D.O.** The Board of Medicine issued a 2nd Order in Furtherance of Settlement Agreement for Bruce D. Latham, D.O. Dr. Latham is to follow all deadlines set forth in the Order in Furtherance of Settlement Agreement issued on February 6, 2012 except for those extended.

3/9/12 **David N. Lunianski, D.O.** The Board of Medicine issued an Order Denying Request for Reinstatement. The Board denied the request because Dr. Lunianski has failed to comply with paragraph 7E of the February 2, 2011 Settlement Agreement.

3/12/12 **Bijoy L. Kundu, M.D.** The Board of Medicine issued an Order Denying Request to Complete Intensive Course of CME for Dr. Bijoy L. Kundu, M.D. Pursuant to the terms of the November 2008 Settlement Agreement, Dr. Kundu must complete the three-year clinical residency suggested by CPEP. The Board has voted to deny

accepting a six-day CME in lieu of this requirement.

3/21/12 **Michael P. DiPre, M.D.** The Board of Medicine issued an Order of Emergency Suspension of Prescribing Privileges and Notice of Hearing for Michael P. DiPre, M.D. The Board received information indicating that the continued prescribing of controlled medications poses an imminent threat to life, safety and/or health which warrants the immediate suspension of Dr. DiPre's privilege to prescribe controlled medications pending a hearing that is scheduled for April 4, 2012.

4/16/12 **Philip V. Maiorano, M.D.** The Board of Medicine issued an Order of Emergency Suspension and Notice of Hearing. The Board has received information indicating that the continued practice of medicine by Dr. Maiorano presently poses an imminent threat to life, safety and/or health which warrants the temporary suspension of Dr. Maiorano's license to practice medicine pending a hearing which is scheduled for April 19, 2012.

4/20/12 **Philip V. Maiorano, M.D.** The Board of Medicine issued an Order Extending License Suspension in the Matter of Philip V. Maiorano, M.D. Subsequent to a preliminary hearing on April 19, the Board found that Dr. Maiorano's continued practice of medicine poses an imminent danger to the health and safety of the public. The Board ordered the license to be suspended pending an investigation and full adjudicatory proceeding. Dr. Maiorano's license is suspended until further order of the Board.

4/20/12 **Timothy J. Baisch, M.D.** The Board of Medicine issued an Order of Conditional Approval of Application For Initial Temporary License for Timothy J. Baisch, M.D. Dr. Baisch applied for a temporary (six-month) license to practice medicine. The Board approved the application with conditions.

5/7/12 **Robert A. Norman, D.O.** The Board of Medicine issued a Final Decision and Order for Robert A. Norman, D.O. On April 4, the Board held a hearing after which it found that Dr. Norman engaged in the unlawful practice of medicine by

holding himself out as qualified to practice medicine in New Hampshire when he was not licensed or otherwise authorized to do so. Dr. Norman is assessed an administrative fine in the amount of \$20,000.00.

6/8/12 **Richard T. Cook, M.D.** The Board of Medicine issued a Final Decision and Order for Richard T. Cook, M.D. On May 2, the Board held a hearing after which the Board found that Dr. Cook engaged in professional misconduct for his failure to provide a written response in a Board investigation. Dr. Cook is reprimanded and assessed an administrative fine in the amount of \$500.00.

6/8/12 **Noble N. Gabriel, M.D.** The Board of Medicine approved a Settlement Agreement for Noble N. Gabriel, M.D. On December 21, 2011, the Massachusetts Board of Registration in Medicine issued a final disciplinary order relating to an unnecessary examination of a patient. Accordingly, the New Hampshire Board has taken reciprocal action. Dr. Gabriel is reprimanded and he must complete 20 hours of CMEs imposed by the MA Board. Dr. Gabriel must have a chaperone present whenever he conducts a physical examination of any female patient.

6/6/12 **Roger N. Gutner, M.D.** The Board of Medicine approved a Settlement Agreement for Roger N. Gutner, M.D. Dr. Gutner removed a black lesion from Patient 1 but did not send it to pathology or schedule any follow up. Dr. Gutner failed to recognize the central nervous side effects of medications he prescribed when exhibited by Patient 2. Dr. Gutner is reprimanded. He is required to participate in 4 CME hours on prescribing and 10 CME hours in dermatology with special attention to skin cancers. Dr. Gutner is assessed an administrative fine in the amount of \$3,000.00.

6/6/12 **Lisa M. Hatzos, M.D.** The Board of Medicine approved a Settlement Agreement for Lisa M. Hatzos, M.D. Dr. Hatzos wrote sixteen prescriptions, including for the following controlled drugs: hydrocodone, hydromorphone, alprazolam and lorazepam for an individual with whom no physician-patient relationship was established. Dr.

Hatzos is reprimanded and assessed an administrative fine in the amount of \$3,000.00. She must contract with the Professionals Health Program.

7/11/12 **Nadia H. Khan, M.D.** The Board of Medicine approved a Settlement Agreement for Nadia H. Khan, M.D. Dr. Khan failed to recognize that an EKG showed a complete heart block at the heart rate of 29, which would most likely have required hospitalization, and sent the patient home. The following day, the patient was admitted to the hospital's emergency department for the placement of a pacemaker. Dr. Khan is reprimanded and is required to participate in 28 hours of continuing medical education in the areas of electrocardiography and arrhythmias.

7/11/12 **John A. Eppolito Jr., M.D.** The Board of Medicine approved a Settlement Agreement for John A. Eppolito Jr., M.D. Dr. Eppolito prescribed medications, including controlled medications, for three separate individuals employed by the hospital where he was working, while failing to maintain appropriate medical records and without forming valid physician-patient relationships. Dr. Eppolito is reprimanded and required to participate in the Case Western Reserve University School of Medicine intensive course in Medical Ethics, Boundaries and Professionalism.

7/13/12 **Christopher B. Kirby, M.D.** The Board of Medicine issued an Order of Emergency Suspension and Notice of Hearing. The Board has received information indicating that the continued practice of medicine by Dr. Kirby presently poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Kirby's license to practice medicine pending a hearing scheduled for July 25, 2012.

8/7/12 **Corey J. Meyers, M.D.** The Board of Medicine issued a Final Decision and Order in the Matter of Corey J. Meyers, M.D. The Board held a hearing on July 11, 2012, to determine whether reciprocal disciplinary sanctions to a New York revocation order were appropriate. The Board has serious concerns about Dr. Meyer's competency to practice medicine and therefore is indefinitely

suspending his license pending a full evaluation of his competency to practice clinical medicine.

A reminder that pursuant to RSA 329:16-f, I, all licensees must maintain a current business address on file with the Board. Any changes in your address shall be reported to the Board within 30 days from the date of the change. Changes can be sent to nichole.mooney@nh.gov.

**New Hampshire Board of Medicine
Mission Statement**
To protect the public from the unprofessional, incompetent, or impaired practice of medicine. The Board of Medicine issues licenses to qualified Allopathic and Osteopathic physicians and physician assistants based on recognized credentialing standards. The Board regulates the minimum standards of professional conduct and continued competence and takes disciplinary action against licensees who fail to meet these standards.

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