

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS



Suite 100
830 Union Street
New Orleans
Louisiana 70112-1499
Telephone: (504) 524-6763

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NEWSLETTER

October 1990

National Practitioner Data Bank: Mandatory Reporting Commences

The National Practitioner Data Bank (NPDB), mandated by the Health Care Quality Improvement Act of 1986, commenced operations September 1, 1990. As previously noted, the NPDB is to be a national repository for information on medical malpractice judgements and settlements and adverse actions against physicians and dentists by licensing authorities, health care institutions, and professional societies. Medical malpractice insurers and self-insured practitioners are mandated under the law to report to the NPDB and to state licensure Boards all settlements and adjudications of malpractice claims. Health care facilities are required to report adverse actions against clinical privileges to the state licensing authority (Medical Board, Dental Board) which must in turn furnish the information to the NPDB. Adverse actions taken by the Board of Medical Examiners must be reported within 30 days of the date of the action. All reporting entities have been provided reporting forms and instructions by the NPDB. A practitioner will be able request information on his or her own file regarding adverse actions reported to the NPDB. The address of the NPDB is Post Office Box 5048, Camarillo, California, 93011-6048. The law imposes substantial penalties for failure to report.

1991 Renewals

The Board plans to mail out 1991 renewal applications in November. To avoid the \$100 late penalty fee, your renewal must be received by the Board on or before December 31, 1990. We suggest that you send your renewal in as early as possible to avoid holiday mail delays. If you do not receive a renewal notice by December 1, contact the Board office. Please be certain to keep us advised of your correct mailing address. Your current preferred mailing address of record is as shown on this Newsletter.

Board News

The Board is pleased to announce Dr. Keith C. Ferdinand has been appointed to replace Dr. Anthony J. Hackett, Jr., who retired in January. Dr. Ferdinand, a 1976 graduate of Howard University College of Medicine, trained in internal medicine and cardiology, and has practiced in New Orleans since 1981.

In accordance with the Board's policy, new officers were elected and took office effective July 21, 1990 as follows: Elmo J. Laborde, M.D., President; Bernard L. Kaplan, M.D., Vice-President; F. P. Bordelon, Jr., M.D., Secretary-Treasurer. New officers are elected every two

years and may not succeed themselves in office.

At its August meeting, the Board recognized the accomplishments of its immediate past President, Ike Muslow, M.D., with the presentation of a plaque commending him for his services during his tenure as President of the Board and his continuing services as a member.

Anabolic Steroids Classified as Schedule II Controlled Substances

In its 1990 Regular Session, the Louisiana Legislature designated anabolic steroids as Schedule II controlled dangerous substances.¹ The statute provides that, unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of anabolic steroids, including, but not limited to the following substances, or any material which contains any of their salts, isomers, or salts of isomers whenever the existence of such salts, isomers, or salts of isomers is possible within the specific chemical designation:

Bodenone	Methandrostenolone
Chlorotestosterone	Methyltestosterone
Clostebol	Mibolerone
Chorionic gonadotropin	Nandrolone
Dehydrochloromethyltestosterone	Norethandrolone
Dihydrotestosterone	Oxandrolone
Drostanolone	Oxymesterone
Ethylestrenol	Oxymetholone
Fluoxymesterone	Stanolone
Mesterolone	Stanozolol
Methandrenone	Testolactone
Methandranone	Testosterone
Methandriol	Trenbolone

Unless and until any of these substances are exempted, physicians must abide by prescription requirements as for any other Schedule II substance—a written prescription is required and refills are prohibited. Dispensing physicians must also abide by the same inventory and other requirements as for other Schedule II substances.

By the same Act the Legislature also amended La. Rev. Stat 40:1239 to incorporate the same list of anabolic steroids. As previously noted in the *Newsletter*, this statute provides for suspension or revocation of licensure, a fine of \$5000 and/or imprisonment of a physician, dentist or veterinarian who prescribes, dispenses, delivers or administers an anabolic steroid for human use or causes an anabolic steroid to be administered under his direction or supervision for human use except for a valid medical purpose and when required by demonstrable generally

¹ Acts 1990, No. 524.

accepted medical indications. The statute expressly negates as a valid medical purpose body building, muscle enhancement or increasing muscle bulk or strength through the use of an anabolic steroid by a person who is in good health.

Board Announces Position on Medication Therapies Used in the Treatment of Obesity

In the course of the past year, the Louisiana State Board of Medical Examiners has investigated the effectiveness and medical propriety of several medications which have been promoted and used in the treatment of obesity, including HCG (human chorionic gonadotropin) and thyroid hormones, diuretics, potassium and anorectic drugs. The Board's inquiry was prompted by substantial scientific evidence questioning the efficacy of such medications when used for weight control, contraindications for and medical risks associated with their administration, the costs incurred by patients for such medication regimes, and public and professional complaints and inquiries concerning the utilization of such medication therapies. In exploring these issues, the Board surveyed the regulations of other states relative to the use of such medications in obesity, considered relevant scientific research, solicited and received public and professional comments and conducted a public hearing on the subject.

The study led the Board to conclude that legal regulation (through administrative rules and/or legislation) of certain medication regimes may be warranted. Pending the development and promulgation of any such regulations, however, the Board believed it appropriate to provide notice—to the medical profession and to the public—of its findings and conclusions, as the Board's views with respect to medication therapies used in the treatment of obesity will necessarily bear upon the Board's investigation and enforcement of alleged violations of the Medical Practice Act.²

Based on its study, thus, the Board concluded that:

- Neither HCG (human chorionic gonadotropin), thyroid hormones, nor diuretic medications have been shown to have, nor do they have, any demonstrated efficacy in the medical treatment of obesity. A physician's administration, dispensation, prescription or other use of any of such medications in the treatment of obesity will, accordingly, be considered cause for formal investigation by the Board. In an administrative disciplinary case where it is established that a physician has employed such medication regimes in the treatment of obesity, evidence of the type which the Board has examined in the course of its consideration of this subject, absent substantial contravening evidence, would be considered by the Board to support a finding that the physician is culpable of professional or medical incompetence. Regular use of such medications, moreover, might equally demonstrate efforts to deceive or defraud the public and/or continuing or recurring medical practice failing to satisfy the prevailing or usually accepted standards of medical practice in this state. Such findings would provide grounds for suspension or revocation of the physician's medical license.³

²LA. REV. STAT. ANN. §§ 37:1261-1292 (West 1988 & Supp. 1990).

³LA. REV. STAT. ANN. §§ 37:1285(A)(10), (12), (14) (West 1988 & Supp. 1990).

- The Board cannot conclude that anorectics (amphetamines, sympathomimetic amines) are wholly without efficacy in the treatment of obesity, though the Board, in line with the substantial weight of medical authority, continues to question the utility of such medications in the treatment of obesity, given their limited, short-term efficacy and their demonstrated high potential for tolerance and abuse. Based on its most current review of anorectic usage, the Board generally reaffirms its adherence to the views and guidelines for use of anorectics set forth in its 1984 Statement of Position on the subject.⁴ On the basis of more current information, however, the Board has now concluded that anorectic medications should never be knowingly prescribed for a patient beyond a *single*, 12-week term of administration. Knowing deviation from this limitation, or from other principles prescribed in the Statement of Position will (as with use of HCG, thyroid and diuretic medications) be deemed cause for investigation and disciplinary enforcement proceedings by the Board.
- Administration of potassium may, in appropriate cases, be appropriately used as an adjunct in the treatment of obesity. When it is prescribed, however, potassium levels should be regularly and continuously monitored by the treating physician.

Separate Registration Required for Use of Narcotic Drugs in Maintenance or Detoxification Treatment

In a number of disciplinary proceedings before the Board, physicians have sought to justify excessive, prolonged prescription of narcotic drugs to patients as attempts at narcotic rehabilitation treatment, through detoxification or maintenance.⁵ Whether or not urged legitimately, such defenses, along with the Board's general investigative activities regarding physician practices, indicate that a significant segment of the medical community may be unaware of the special constraints imposed by Federal and state law on a physician's treatment of patients for narcotic addiction.

It should be clearly understood by all physicians that a separate Louisiana license and Federal Drug Enforcement Administration (DEA) registration is required for each separate location from which a physician dispenses or at which a physician stores controlled substances, whether the physician is involved in narcotic treatment or not.⁶ But physicians who dispense or administer narcotic drugs to patients for maintenance or detoxification treatment are additionally required to annually obtain a *separate* registration for that purpose and a separate registration for each site from which the physician dispenses or at which he administers or stores medications for such purposes.⁷

⁴La. State Bd. Med. Exam., STATEMENT BY THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS CONCERNING THE PRESCRIPTION OF ANORECTICS (AMPHETAMINES AND SYMPATHOMIMETIC AMINES) (Feb. 1, 1984).

⁵In this context, as well as under applicable regulations, "detoxification" treatment connotes dispensation of narcotic drugs to an individual in decreasing doses, for not more than 180 days, to alleviate adverse effects of withdrawal and to bring the individual to a drug-free state. "Maintenance" means dispensing narcotic drugs in the treatment of an individual for dependence on heroin or other morphine-like drugs. 21 U.S.C. § 802(29), (30); 21 C.F.R. § 1301.02(e), (h).

⁶LA. REV. STAT. ANN. § 40:973(D) (West 1977); 21 C.F.R. § 1301.23.

⁷21 U.S.C. § 823(g); 21 C.F.R. §§ 1301.22-23. The *sole* recognized exception to the registration requirement permits an unregistered physician to administer (but not prescribe or dispense)

Even as to a properly registered physician, moreover, narcotics may only be administered or dispensed directly to a patient for narcotic treatment. Federal law expressly prohibits the issuance of a prescription for narcotic drugs for maintenance or detoxification treatment.⁸

The applicable regulations also mandate that a physician who is, or should be, registered to a narcotics treatment program maintain, and biennially update, a separate inventory of controlled substances used for such program, observe certain security standards in the storage of such substances, and keep detailed records of dispensation and administration. Such requirements are separately applicable to each treatment site, and records are required to be maintained for a minimum of two years.⁹

Thus, a physician who, for detoxification or maintenance purposes, dispenses or administers narcotics without registration or in noncompliance with the inventory, security and recordkeeping requirements of the law is subject to loss of medical licensure and to criminal prosecution. The same penalties are applicable to any physician who *prescribes* narcotics for detoxification or maintenance.

(footnote con't'd)

narcotic drugs for the purpose of "relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment." 21 C.F.R. § 1306.07(b). In such case, however, not more than one day's medication may be administered for the person's use at one time, and such emergency treatment cannot extend beyond three days. *Id.*

⁸21 C.F.R. § 1306.04(c).

⁹See 21 C.F.R. §§ 1301.71-.76 (security requirements); 21 C.F.R. §§ 1304.01-.04 (general requirements); 21 C.F.R. §§ 1304.11-.19 (inventory requirements); 21 C.F.R. §§ 1304.21-.29 (records requirements); see also LA. REV. STAT. § 40:976 (inventory).

*Charges noted recite the principal statutory causes cited in institution of administrative proceedings or in the conduct of investigations, but do not necessarily represent findings by the Board or admissions by the respondent as to the respondent's culpability of such charges.

Notice of Address Change

Whenever a licensee's professional, home or preferred mailing address is changed, it is important that the Board be notified as soon as possible. It is imperative that you keep the Board informed of any change of name and/or address to ensure receipt of the annual renewal forms, which are mailed in mid-November each year. If you do not receive your renewal application, you should contact the Board office, as failure to renew will result in suspension of your license. Physicians located in Louisiana should also notify the Drug Enforcement Administration, 1661 Canal Street, Suite 2200, New Orleans, Louisiana, 70112, and the Louisiana Narcotics and Dangerous Drugs Division, Post Office Box 3767, Baton Rouge, Louisiana, 70821 of any change of address. The form below may be used to advise the Board of an address change.

CHANGE OF ADDRESS NOTICE

(Please Type or Print)

Name: _____ License Number: _____

Effective Date of Change: _____

Professional Address:

Street Address City/Town State Zip Code + 4

Parish Telephone Number: (Area Code) Number/Extension

Home Address:

Street Address City/Town State Zip Code + 4

Parish Telephone Number: (Area Code) Number/Extension

Preferred Mailing Address:

Street Address City/Town State Zip Code + 4

Post Office Address City/Town State Zip Code + 4

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Suite 100
830 Union Street
New Orleans, Louisiana 70112-1499

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