

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS NEWSLETTER



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The Misuse of Prescription Narcotics

The misuse of prescription narcotics (oxycodone (OxyContin), hydrocodone (Vicodin, Lorcet), alprazolam (Xanax), carisprodol (Soma), methadone and others) is a significant and increasing problem in Louisiana. Abusers and distributors acquire pharmaceutical drugs via prescription forgeries and/or "doctor shopping" inside the state as well as from the surrounding states, Mexico and the internet. A great deal of this illegally obtained medication is sold by the abusers to support their own addictions. Overdose from prescription drugs (especially methadone) is now the leading cause of accidental death in several areas of the state. For more background information on the extent of the problem checkout <http://www.dea.gov/pubs/states/louisiana.html> and <http://www.dhh.louisiana.gov/offices/publications/pubs-23/LSEWG%202004%20Full%20Report.pdf>.

A number of laws have been enacted in recent years in response to this problem including most notably the creation of the Prescription Monitoring Program and establishment of a licensing requirement for pain clinics. Related rule making efforts are described below.

Legislation has been proposed that will prohibit "Doctor Shopping" for the purpose of obtaining pain medication and will place limits on the amount of pain medications that someone may have on their person at one time.

The Board of Medical Examiners is working proactively with other state and federal authorities to crack down on the illegal use of prescription narcotics. At the same time, the Board is working proactively with the Louisiana State Medical Society and with others to promote the appropriate use of pain medications. The Board would like to assure physicians that it recognizes that the very great majority of physicians prescribe these medications appropriately to the very great benefit of their patients. We urge physicians to consult the pain rules on our website which are intended to enable the appropriate prescription of these medications.

In this regard the U.S. Department of Health and Human Services, Center for Substance Abuse Treatment has published a guideline to assist health care providers in prescribing opioid medications in managing pain, distinguishing between physical and psychological

dependence and reducing patients' risk of psychological dependence on opioids during pain management. Check it out at http://kap.samhsa.gov/products/brochures/pdfs/saib_0401.pdf (See related story on page 6)

Hurricane Preparations

Sign-Up To Become a Medical Volunteer

Recent events, including Hurricanes Katrina and Rita, and the terrorist attacks of September 11, 2001, have increased the national attention given to the public health emergency preparedness. These events underscored the need for an emergency "surge" or supplemental health care workforce that can be mobilized to respond immediately to mass casualty events. Louisiana's Emergency System for Advance Registration of Volunteer Health Professionals (ESAR-VHP) provides a systemic process for statewide medical volunteer coordination in the event of an emergency.

ESAR-VHP establishes a pool of pre-credentialed, ready-to-deploy volunteer health professionals that could be utilized during emergencies. To date the program has over 2,000 medical volunteers involved in the program. The ESAR-VHP Program is housed in the Center for Community Preparedness within the Louisiana Department of Health and Hospitals, Office of Public Health. The Board has entered into an agreement with ESAR-VHP to provide the necessary credentialing information for person under its jurisdiction.

Interested medical personnel (physicians, physician assistants, acupuncturist/assistants, clinical laboratory personnel, podiatrists, clinical exercise physiologists, occupational therapists/assistants, respiratory therapists, etc.) should contact Mardrah Starks at 225-763-3965 or mmstarks@dhh.la.gov to become a part of the state's volunteer database. Please sign up today! Your community and state need YOU! Look for our website going live August 2007.

Malpractice Settlements

For over three decades Louisiana law has required that medical malpractice insurers, self-insured physicians and other health care providers report to the Board payments

of malpractice settlements or judgments in excess of \$1,000 whether by judgment, order, or settlement within 30 days of the date of payment. Among other items, the report must also include a description of the "acts of omission or commission" giving rise to the claim. The same obligation is mirrored by federal law, which requires the reporting of malpractice settlements or judgments of any amount to the National Practitioners Data Bank, as well as state boards of medical examiners.

The Board's evaluation of malpractice settlements or judgments is not to assess whether there is evidence of an unfortunate, but known complication of a given procedure or to support a finding of physician negligence. Rather, our review focuses on whether the conduct in question rises to the level of medical incompetence, or demonstrates a pattern of substandard medical practice, either of which would serve as a basis for administrative disciplinary action against a physician's license to practice medicine.

Upon receipt of information concerning a malpractice claim, the physician is asked to provide the Board with a narrative concerning the details of the case. This narrative is then reviewed by the Board's physician medical consultant, who screens the case to determine if further investigation or inquiry is required. To assist in this process, the medical consultant may request additional information from the physician including a copy of the submission and/or decision of the medical review panel. On occasion, a subpoena may be issued to obtain a copy of the medical record and the case may be referred for outside expert review. In the vast majority of cases, it is the determination of the medical consultant that the malpractice case does not rise to the level of medical incompetence or evidence a pattern of substandard care. In these instances, a report is presented to the Board with a recommendation that the matter be closed.

On occasion, when a single malpractice claim is so particularly egregious or where there have been multiple settlements or judgments that reveal a pattern of practice which raises concerns over the competence of a particular physician, the medical consultant refers the matter to the Director of Investigations ("DOI") for further handling. From this point forward the matter is addressed by the DOI as any other investigation of a potential infraction of the Medical Practice Act. The investigation may include a more expansive review of the physician's practice, an informal remediation conference, or a recommendation that the physician undergo a competency evaluation. When concluded, the results of the investigation are presented to the Board with a recommendation for disposition. Depending upon the findings of each investigation, the DOI may recommend that the matter be dismissed without Board action, or an agreed disposition with the consent of the physician imposing terms and conditions on his or her license, or the filing of administrative charges against the physician.

The law does not allow the Board to disclose information to the public that does not result in disciplinary action. Therefore, the only information disclosed relative to malpractice, if disciplinary action is not taken by the Board, is the fact that we are in receipt of one or more reports of malpractice judgments or settlements which is not, in and of itself, evidence of medical incompetence in particular or medical negligence in general on the part of a physician.



THE PRESIDENT'S REPORT

I would like to report on the development of several rules relative to the practice of medicine that either have been adopted or are in the final process as of publication.

Emergency Temporary Permits: Rules have been adopted which authorized the Board to issue temporary permits to physicians and allied health care providers <http://www.doa.louisiana.gov/osr/reg/0701/0701RUL.pdf> and acupuncturists' assistants <http://www.doa.louisiana.gov/osr/reg/0611/0611RUL.pdf> in good standing elsewhere who are visiting Louisiana on a short term basis to care for patients in declared emergencies.

Pharmacy Collaborative Drug Therapy Management: Notices of Intent to adopt rules that would provide for Collaborative Drug Therapy Management by Physicians and Pharmacies have been jointly promulgated by the Louisiana State Board of Medical Examiners and the Louisiana Board of Pharmacy <http://www.doa.louisiana.gov/osr/reg/0611/0611NOI.pdf>.

Disease Specific Drug Therapy is defined in the rule as specific drug or drugs prescribed by a physician for a specific patient of such physician generally accepted within the standard of care for treatment of one of the following diseases or conditions; a. treatment and prevention of arterial and venous clot propagation and disease i.e., anti-coagulant therapy; b. treatment and prevention of diabetes; c. adjustment of medication administered by inhalant for treatment of asthma; d. treatment and prevention of dyslipidemia; e. smoking cessation therapy; f. administration of disease specific vaccines to patients 16 years of age and older; and; g. such other drugs, diseases or conditions as may be subsequently recommended by the advisory committee and approved by the Board.

Collaborative Drug Therapy Management or Drug Therapy Management is defined in the rule as that practice in which a pharmacist, to the extent authorized by a collaborative drug therapy management agreement, voluntarily agrees with a physician registered with the Board under this Chapter, to manage the disease specific drug therapy of one or more patients of such physician, within a predetermined range of medication selected by the physician and set forth in a written protocol.

Taken together the Board of Medical Examiners and the Board of Pharmacy rules provide for the registration of participating physicians and pharmacists, the creation of a collaborative drug therapy agreements between collaborating physicians and pharmacists, establishment of disease specific

educational requirements for pharmacists, establishment of advisory committees, and place certain limits on who may be treated and what types of medications may be used.

Prescription Monitoring Program (Board of Pharmacy):

In 2006, a law providing for the development of a Prescription Monitoring Program in Louisiana was enacted. The Board of Pharmacy was designated as the agency to plan and operate the program with the assistance of an Advisory Council. The statute requires each authorized dispenser of controlled substances to electronically report prescription information (i.e., prescriber, patient, prescription, controlled substance and dispensing information) to a central data base. Hospital pharmacies, physicians who dispense no more than a single 48 hour supply of a controlled substance to a patient prior or subsequent to a procedure, administration of a controlled substance, and wholesale distributors possessing specified credentials are exempted from the reporting requirement. Implementation is expected later this year. For more information go to the Louisiana Board of Pharmacy website at <http://www.labp.com>.

Licensing of Pain Clinics (Department of Health and Hospitals): In 2005, a law (Act 488) providing for the licensure of pain management clinics by the Department of Health and Hospitals and for a moratorium on licensing of such facilities was enacted. Facilities operating at the time were permitted to come into compliance with the rules once adopted. A Notice of Intent to adopt such a rule was published in the Louisiana Register in January 2007, <http://www.doa.louisiana.gov/osr/reg/0701/0701NOI.pdf>.

Visiting Physicians, Professor, Short-Term Residency/Preceptorship Permits: A Notice of Intent to amend the Board's rules relating to visiting physician, professor, short-term residency/preceptorship permits has been published in the Louisiana Register <http://doa.louisiana.gov/osr/reg/0702/contents.pdf>. The amendments, if adopted, will (1) allow these applicants to forego submission, collection and processing of criminal history record information including fingerprints, (2) will eliminate personal appearances, (3) will waive fees (Visiting Physician and Visiting Professor permits), and (4) enable the Board's use of electronic resources for processing forms, applications, and conducting its own verification of licensure status and disciplinary history. The amendments have been proposed to enable the more timely licensure of physicians in good standing elsewhere who are visiting Louisiana on a short term basis to care for patients or to serve as instructors in educational programs of benefit to the citizens of the state or to participate in educational programs sponsored by the medical schools or major teaching hospitals in this state.

Kweli J. Amusa, M.D., President

HEALTH CARE WORKFORCE - TRENDS IN THE AFTERMATH OF THE GREAT STORMS AND FLOOD OF 2005

The impact of the storm and flooding on the healthcare workforce in the SE and SW regions of the state has been significant and is continuing. Measuring the losses has proven to be challenging. The trends are the same as noted previously with a loss of 5% of the physician workforce overall with much higher losses in the areas devastated by the hurricanes and floods and with a shift to higher ground (North Shore and Baton Rouge.)

	7/1/2005	10/1/2006	3/1/2007	dif	%
Mailing Parish in LA		revised		05 vs 07	
ORLEANS	2,463	1,663	1,582	(881)	-36%
JEFFERSON	1,800	1,800	1,755	(45)	-3%
SAINT BERNARD	49	8	7	(42)	-86%
JEFFERSON DAVIS	27	23	23	(4)	
OUACHITA	391	402	387	(4)	
SAINT LANDRY	146	147	143	(3)	
WEST CARROLL	8	6	5	(3)	
ASSUMPTION	7	6	5	(2)	
PLAQUEMINES	13	11	11	(2)	
WEBSTER	45	45	43	(2)	
CALCASIEU	366	381	376	10	3%
RAPIDES	379	395	390	11	3%
ASCENSION	62	80	78	16	26%
TERREBONNE	194	213	213	19	10%
TANGIPAHOA	120	143	146	26	22%
CADDO	1,149	1,226	1,199	50	4%
LAFAYETTE	615	675	680	65	11%
SAINT TAMMANY	698	763	766	68	10%
EAST BATON ROUGE	1,284	,418	1,399	115	9%
None Listed	24	35	31		
Total in LA	11,025	10,713	10,499	(526)	- 5%
Mailing address not LA	4,918	4,839	4,728	(190)	-4%
Total licensed	15,943	15,552	15,227	(716)	-4%

Sexual Misconduct

The Federation of State Medical Boards has published a set of guidelines for state medical boards to use in addressing sexual misconduct by physicians. The guidelines apply to physicians as well as all health care providers.

Physician sexual misconduct is defined as behavior that exploits the physician-patient relationship in a sexual way. Sexual behavior between a physician and a patient is never diagnostic or therapeutic. This behavior may be verbal or physical, and may include expressions of thoughts and feelings or gestures that are sexual or that reasonably may be construed by a patient or patient's surrogate as sexual.

Two types of professional sexual misconduct are recognized, i.e., sexual impropriety and sexual violation. Both types are the basis for disciplinary action by a state medical board if the board determines that the behavior exploited the physician-patient relationship. Sexual impropriety may comprise behavior, gestures, or expressions that are seductive, sexually suggestive, disrespectful of patient privacy, or sexually demeaning to a patient. Sexual violation may include physical sexual contact between a physician and patient, whether or not initiated by the patient, and engaging in any conduct with a patient that is sexual or may be reasonably interpreted as sexual. ([http://.fsmb.org/pdf/GRPOL Sexual%20Boundaries.pdf](http://.fsmb.org/pdf/GRPOL%20Sexual%20Boundaries.pdf))

Election of Officers

In the usual and customary manner, Kweli J. Amusa, M.D., an emergency medicine physician from Slidell, was elected President of the Board, December 11, 2006. Dr. Amusa represents the second female appointed to the Board and is the first female African-American President. She is appointed from a list of nominees from the Louisiana Medical Association and has served on the Board since March 2000.

Also elected to take offices were Linda Gage-White, M.D., Ph.D., Vice-President and Mark Henry Dawson, M.D., Secretary-Treasurer. The officers serve a two year term. These officers will face great challenges as Louisiana continues to recover and face a struggling health care system.

At this time, the Board would like to express its deepest appreciation to outgoing President, Kim Edward LeBlanc, M.D., Ph.D., who in his term saw the most challenging of times, with two hurricanes impacting health care in Louisiana. Dr. LeBlanc also served as Interim Executive Director upon the resignation of its Executive Director in October 2005, a position he held for approximately 9 months. Taking over the operations of the Board at a time of need on a voluntary basis demonstrates his personal integrity and commitment to the medical profession.

Dr. LeBlanc currently serves on the Board of Directors of the Federation of State Medical Boards and continues to serve as a member of the Board.

Register with FindLaDocs.com

The Board has taken over the day-to-day operation of FindLaDocs.com which was created by Louisiana Health Care Review and which was used by many physicians and patients to reconnect in the aftermath of the storms and floods of 2005.

FindLaDocs is a website where you can post/update your contact information so that your patients can learn how to reach you in the event of an evacuation. Check it out at <http://www.findladocs.com>. Tell your colleagues and patients about it.

Physician Assistant Survey

The Louisiana State Board of Medical Examiners and the Physician Assistant Advisory Committee are jointly conducting a survey of physician assistant practices. The goal is to develop a model rule relating to the delegation of authority to perform certain procedures and to establish more formally a process for documenting competency. Feel free to call the Board office if you would like to participate in the survey, or you can print a copy from the website at www.lsbme.louisiana.gov.

Emergency Preparedness- Obtain Up-to-Date Information and Answers to Questions

We have established a mirror site for our computer operations in a secure government information services facility in Baton Rouge and will switch to this site in the event we are not able to operate out of New Orleans. The switch will be transparent to users.

Physicians, provider organizations and the public will be able to obtain up-to-date information and answers to questions relating to licensure of health professionals under the jurisdiction of the Board by going to our website at <http://www.lsbme.louisiana.gov>. Contact information will be provided in the event that additional information and/or services are needed.

