

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

NEWSLETTER

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From the President

In this issue of the Newsletter we provide timely updates on rules and advisory opinions that may affect your practice, report on work force trends and other news relating to the Board's activities and provide perspectives relating to the physician workforce and access to care in the United States and other topics of interest. For more information about all of these topics and more - visit our web site at www.lsbme.la.gov and while you are visiting subscribe to the RSS feed to keep up with the News from the Board.

We welcome your feedback on the topics that are presented and recommendations regarding future topics as well as legislative and/or rule making efforts, and board services. Please contact us at feedback@lsbme.la.gov. Thanks

Kweli Amusa MD, President LSBME

Rules - Adopted

Acupuncture - August 2008

Amendments to the Board's Rules relating acupuncture were noticed for adoption in the Louisiana Register in August 2008. The amendments provide for the certification and supervision of Acupuncture Detoxification Specialists and remove the requirement that Acupuncture Assistants be employed by physicians.

Office based dispensing - September 2008

Amendments to the Board's Rules relating to office based dispensing were noticed for adoption in the Louisiana Register in September 2008. The amendments limit office based dispensing of scheduled drugs to a 48 hour supply. The process for obtaining a dispensing permit has been streamlined. The amendments were developed primarily in response to the alarming number of overdose deaths associated with the misuse and/or diversion of these drugs and the problems we have had historically with compliance of the Board rules relating to office based dispensing. The rule will be implemented January 1, 2009 to give physicians with a dispensing permit time to clear out existing supplies

Adjudication - September 2008

Amendments to the Board's Rules relating to adjudication were noticed for adoption in the Louisiana Register in September 2008. The amendment provides for a hearing within 60 days rather than 45 days in the event of summary suspensions of licensure.

Rules - Notices of Intent

Midwifery - October 2007

A Notice of Intent to amend the Board's Rules relating to Certified Midwives was published in the Louisiana Register in October 07. The amendments proposed to update a number of provisions generally, incorporate certain revised definitions and make other substantive modifications consistent with the controlling law. Due to unfavorable public comment the Board has decided not to pursue the proposed changes.

Emergency Orders - August 2008

A Notice of Intent to amend the Board's Rules relating to emergency orders was published in the Louisiana Register in August 08. If the Board, acting through its president or another member designated by the president, finds that the public health, safety, and welfare requires emergency action and a finding to that effect is incorporated in its order, summary suspension of a license, permit, certificate or registration may be ordered pursuant to R.S. 49:961(C), pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined pursuant to this Chapter.

Approval of applications for licensure - August 2008

A Notice of Intent to amend the Board's Rules relating to approval of applications for licensure was published in the Louisiana Register in August 08. The Board, acting through its president or designee, may approve the issuance and renewal of any license, certificate, registration, permit or other necessary authority that the Board is authorized to issue with respect to a physician or an allied health care practitioner who satisfies and meets all requirements prescribed by law or applicable Board regulation for issuance

or renewal of such license, permit, certificate, registration or authority. In the event that a question exists with respect to an applicant's qualifications, the application or renewal shall be referred to the entire Board.

Podiatry - September 2008

A Notice of Intent to amend the Board's Rules relating to Podiatry was published in the Louisiana Register in September 2008 pursuant to Act 204 of the 2007 session of the legislature. The legislation expanded the scope of practice of podiatry to include "treatment of the ankle, muscles, or tendons of the lower leg governing the functions of the foot and ankle by a podiatrist who has completed advanced training determined to be sufficient by the Board at a program accredited by a nationally recognized accrediting association acceptable by the Board". The amendment to the Rules defines the educational requirement for conservative and surgical treatment of the ankle and limits the procedures that can be done to those that are required for Board Certification in Reconstructive Rearfoot /Ankle Surgery by the American Board of Podiatric Surgery.

Advisory Opinions

Delegation of Authority - January 15, 2008

Administration of medication may be undertaken only by a person who is licensed to do so such as a nurse, physician assistant, or physician or in the case of an unlicensed person who does so under a physician's direction and immediate personal supervision *i.e.*, where the physician is physically present at *all times* that the unlicensed individual provides medical services and retains full responsibility to patients for the training, delivery and results of all services rendered - to do otherwise would be deemed the unlawful "practice of medicine" as defined by the Louisiana Medical Practice Act (the "Act"), La. Rev. Stat. §37:1262(1). The requirement for onsite supervision has been held by the Board consistently over the years in Statements of Position and in Advisory Opinions.

Physician Consultations - March 12, 2008

It has long been the Board's formally stated position that any diagnosis, prescription, recommendation or administration of treatment for or with respect to an individual who is a resident of or located in Louisiana, constitutes the practice of medicine in this state, which is unlawful in the absence of a medical license issued by the Board. However, an exception to this position has been consistently recognized by the Board for consultations. Pursuant to this exception, a Louisiana physician may obtain a true consultation (*i.e.*, a second opinion) from an out-of-state physician not licensed in this state, provided that the requesting physician is personally capable of making and responsible to the patient for the primary diagnosis. As long as the Louisiana licensed physician places the request for consultation and receives the response, the second opinion provided by an out-of-state, non-Louisiana licensed physician would be considered a consultation by the Board and would not violate the provisions of the Louisiana Medical Practice Act, La. Rev. Stat. §§37:1261-92 or any of the Board's rules or policies.

Physician Assistant Consultations - September 18, 2008

A physician assistant may answer consultations provided that: (1) the physician requesting the consultation has agreed to a response by the PA rather than by the supervising physician ("SP"); (2) the consultation pertains to an area within the PA's scope of education, training and experience; (3) the patient-specific consultation is delegated to the PA by the supervising physician; (4) the PA confers with the supervising physician as soon as practical following the consultation; (5) the supervising physician counter signs the PA's consultation note promptly, but in no event later than twenty-four hours depending on the urgency of the situation.

Statement of Position

Maintaining medical records when a practice is closed or has moved - October 20, 2008

LSBME receives numerous telephone calls from practitioners and patients wanting to know the requirements for maintaining medical records when a practice is closed or has moved. There is no provision in state law relating directly to this circumstance at the present time. However, the following should be noted.

Physicians may not abandon patients. Accordingly a physician should give written notice to patients who have been seen within the 3 years preceding the date of closure or moving to enable the patient to arrange for care with another provider and/ or obtain copies of their medical records. The notice should be sent to the last known address of the patient no less than 90 days before closing or moving the practice. The notice should specify who to contact for a copy of the record or to request transfer of records and the cost of copying or transferring records. The Board should be notified as well. Failure to notify patients when a practice is closing or moving depending on the circumstances may be considered abandonment of the patient which is a violation of the Medical Practice Act (LRS 40: 1285 A (17)).

Physicians must provide patients or their representatives with copies of their medical records and radiographic studies upon payment of reproduction costs and handling charges as a matter of state law (LRS 40:1299.96).¹ The law gives the physician a period of time to comply with a request for their medical records (15 days) and includes a provision to compel production of the records if they are not produced timely. Failure to provide patients with a copy of their medical records when all requirements are met, depending on the circumstances, may be considered by the Board to constitute unprofessional conduct which is a violation of the Medical Practice Act (R.S. 40:1285A (13)).

Physicians must maintain medical records for a minimum of 6 years from the date of the last patient visit as a matter of state law (R.S. 40:1299.96). Radiographic studies must be retained for 3 years unless the patient requests that they be held for longer. There is no exception in state law for physicians who are retiring. Additional consideration should be given to the length of time required by insurance companies and malpractice carriers for retaining records, as well as the age of the patient (until age 21) or the existence of incompetence or disabilities (lifetime). With respect to this last category of patients, the provision of records to their

¹ not to exceed one dollar per page (\$1) for the first twenty-five (25) pages, fifty cents (.50) per page for twenty-six to five hundred (26-500) pages, and twenty-five cents (.25) per page thereafter, and a handling charge not to exceed fifteen dollars (\$15).

Disciplinary Actions

SINCE PUBLICATION OF THE LAST NEWSLETTER THE LISTED ADMINISTRATIVE DISCIPLINARY ORDERS HAVE BEEN ENTERED BY THE BOARD. THE CHARGES NOTED ARE THE PRINCIPAL STATUTORY CAUSES CITED IN THE INSTITUTION OF ADMINISTRATIVE PROCEEDINGS OR IN THE CONDUCT OF INVESTIGATIONS BUT DO NOT NECESSARILY REPRESENT THE FINDINGS BY THE BOARD OR ADMISSIONS BY RESPONDENT AS TO THE RESPONDENT'S CULPABILITY OF SUCH CHARGES. PUBLICATION DEADLINES FOR THE NEWSLETTER MAY PREVENT INDICATION HERE AS TO PETITIONS FOR REHEARING OR PROCEEDINGS FOR JUDICIAL REVIEW PENDING AT THE TIME OF PUBLICATION BUT INITIATED AFTER OUR PUBLICATION DEADLINES.

THE FINAL DECISIONS, CONSENT AND OTHER ORDERS REPORTED IN THIS ISSUE INCLUDE ORDERS ENTERED BY THE BOARD SINCE THE LAST ISSUE THROUGH SEPTEMBER 2008. ORDERS AND RULINGS ENTERED AFTER THAT DATE WILL BE REPORTED IN THE NEXT NEWSLETTER.

BRAD ALAN BOUDREAU, M.D., OPELOUSAS, No. 08-I-019. *Charges*— Prescribing, dispensing or administering controlled substances without medical justification or in other than a legal or legitimate manner; unprofessional conduct; violation of any rules and regulations of the Board, or any provision of this Part, R.S. 37:1285A(6), (14) and (30). *Disposition* - Consent Order entered June 16, 2008. Physician's license placed on probation for a period of three years, prohibition on the practice of the management of chronic pain or obesity or holding himself out as being engaged in the treatment of or actually undertake to treat, either individually or in conjunction with any other physician, any patient for the long-term management of chronic pain or obesity (beyond twelve weeks in any twelve month period), nor receive remuneration from, have ownership interest in or association with any clinic or practice setting or arrangement that renders care and/or treatment to patients for chronic pain or obesity or any clinic that advertises or holds itself out to the public as a clinic or practice for the care and/or treatment of patients for

the management of chronic pain or obesity, prohibition on the prescription of Schedule II-V controlled substance, completion of appropriate prescribing and creation and maintenance of adequate medical records seminar, completion of continuing medical education, performance of community service, certification of compliance of probationary terms and payment of administrative and probation monitoring fee.

JOSEPH PIERCE BRAUD, M.D., LAFAYETTE, No. 08-I-456. *Charges*— Prescribing, dispensing or administering controlled substances without medical justification or in other than a legal or legitimate manner; continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice; violation of any rules and regulations of the Board, or any provisions of this Part, and the Board's Rules on Controlled substances Used in the Treatment of Non-Cancer Related Chronic or Intractable Pain, R.S. 37:1285A(6),(14), and (30), and La.Adm.C.46.6915-6923. *Disposition* - Stipulation and Agreement for Voluntary Surrender of Medical License dated entered June 16, 2008. Voluntary surrender of license to practice medicine.

STEPHANIE ANN BUBOLTZ, RRT, Ruston, No. 08-A-001. *Charges*— Continuing or recurring practice which fails to satisfy the prevailing and usually accepted standard of respiratory care practice; La.Adm.C 46:5519A(9). *Disposition*- Opinion and Ruling rendered June 16, 2008. Respiratory Therapy license placed on probation for a period of three (3) years, subject to compliance of various terms and conditions, subject supervisory monitoring and submission of written reports to the Board on performance, including technical skills and competency and completion of ethics training course.

CHRISTOPHER THOMAS BUTLER, PA, LAFAYETTE, No. 06-I-675. *Charges*— Violation of any provision of this Part or any regulations adopted by the Board pertaining to this Part; habitual use of intoxicants or drugs

to such an extent that...unable to safely perform as a physician assistant; habitual or recurring use of ...opium...drugs having a similar effect, or other substances which may induce physiological or psychological dependence; inability to perform or function as a physician assistant with reasonable skill or safety to patients; prescribing legally controlled substances or any dependency-inducing medication without legitimate medical justification therefore or in other than a legal or legitimate manner; utilizing prescriptive authority or medical devices without prior approval of the Board, R.S.37:1360.33A(3) and (5) and LaAdmin.C.46:4513A(5), (13), (16), (18), and (19). *Disposition*- Consent Order entered June 16, 2008. Physician Assistant's license placed on probation for a period of five years, subject to continuing treatment and monitoring, enrollment in the Board's Allied Health Professionals Program, submission of specified written reports to the Board, periodic unannounced drug screens, maintenance of abstinence from the use of all mood-altering substances, prohibition on the prescriptive authority, notification to employers or prospective employers, certification of compliance, and payment of probation monitoring fee.

JAMES WILLIAM CARRUTH, PA, LAFAYETTE, No. 06-I-675. *Charges*— Practicing without supervision; practicing without written clinical practice guidelines or protocols set forth by the supervising physician, R.S.37:1360.31A(1) and 37:1360.22(8). *Disposition* - Consent Order entered June 16, 2008. Physician Assistant's license placed on probation for a period of three years, subject to continuing treatment and monitoring, execution of contract with the Physicians' Health Foundation of Louisiana's Physicians Health Program, the submission of specified written reports to the Board, periodic unannounced drug screens, maintenance of abstinence from the use of all mood-altering substances, prohibition on the practice of chronic pain management or obesity or holding himself out as

being engaged in the treatment of the chronic pain management or obesity, prohibition on the ownership, interest in, operation of, contracting with, or professional association with any pain management clinic, any pain management practice or obesity, Board approval of practice setting, completion of continuing medical education and payment of probation monitoring fee.

KAMI KAY DEHLER,, LM, COVINGTON, No. 08-I-062
Charges—Being derelict in any duty imposed by law; violation of the standard of practice; violation of any lawful order, rule or regulation rendered or adopted by the Board; providing care to high risk patient; improper screening; failure to have initial examination performed by physician; failure to consult the physician to ensure that the patient is a low or normal risk; failure to provide physician back-up, using or causing or promoting the use of any advertising matter, promotional literature, testimonial, or any other representation, however disseminated or published, which is misleading or untruthful; representing that the service or advice of a person to practice medicine will be used or made available when that is not true or using the word "doctor", or similar words, abbreviations, or symbols so as to connote the medical professional, when such is not the case, R.S. 37:3244 and 3251(1), and (6), and La.Admin.C. LAC 46:XLV.5301, 5309, 5311, 5315.A, 5315.B, 5319, 5321, 5347.C, 5361.A, 5361.B, 5363.A, 5363.B., 2367A(1), (6), (15), (9) and (10). Disposition -Opinion and Ruling rendered June 16, 2008. Midwifery license revoked and cancelled.

GERARD MICHAEL DILEO, M.D., Covington, No. 05-I-274.
Charges—Unprofessional conduct; Prescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification or in other than a legitimate manner; continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state, violation of any rules

and regulations of the Board, or any provisions of this Part; and the Board's Rules on Controlled Substances Used in the Treatment of Noncancer-Related Chronic or Intractable Pain, R.S.37:1285A(13), (6), (14), and (30), and La.Adm.C.46.6915-6923. *Disposition* -Consent Order entered March 20, 2008. Physician's license placed on probation for a period of five years, prohibition on the practice of the management of non-malignant chronic or intractable pain or holding himself out as being engaged in the treatment of or actually undertake to treat, either individually or in conjunction with any other physician, any patient for the long-term management of non-malignant chronic or intractable pain (beyond twelve weeks in any twelve month period), nor receive remuneration from, have ownership interest in or association with any clinic or practice setting or arrangement that renders care and/or treatment to patients for non-malignant chronic or intractable pain or any clinic that advertises or holds itself out to the public as a clinic or practice for the care and/or treatment of patients for the management of non-malignant chronic or intractable pain, prohibition on the prescription of Schedule II-V controlled substance or the drugs Nubain, Dalgan, Soma, Ultram or Butalbital, completion of appropriate prescribing and creation and maintenance of adequate medical records seminar, completion of continuing medical education, performance of community service, certification of compliance of probationary terms and payment of administrative fine and probation monitoring fee.

GEOFFREY JEROMME GLOVER, JR., M.D., NEW ORLEANS, No. 08-A-006.
Charges— Unprofessional conduct; fraud, deceit, or perjury in obtaining a license; providing false sworn information; violation of any rules or regulations of the Board or any provisions of this Part;; failure or refusal to respond to the Board's subpoenas, R.S. 37:1285A (13), (3), (4) , (30) and R.S. 37:1278.1. *Disposition*-Opinion and Ruling rendered August 18, 2008. Physician's license suspended until such time as he gives a

satisfactory response to all Board subpoenas, orders, requests and fine and shall remain suspended for a period of one year after the date of his satisfactory response.

NEIL L. HALIM, M.D., SHREVEPORT, No. 07-I-307. *Charges*— Prescribing, dispensing or administering controlled substances without medical justification or in other than a legal or legitimate manner; unprofessional conduct; w3e continuing or recurring medical practice which fails to satisfy the prevailing or usually accepted standards of medical practice in this state; violation of any rules or regulations of the Board or any provisions of this Part, R.S. 37:1285A (6), (13), (14) and (30). *Disposition*-Consent Order entered August 18, 2008. Physician's license placed on probation for a period of two years, prohibition on ownership interest in, operation, contractual relationship with, be employed by, or have any other form of business or professional relationship or association with any pain-management clinic, any pain-management practitioner or any group of pain-management practitioners, prohibition on the prescription of Schedule II or III controlled substance, completion of proper prescribing and record-keeping course, completion of continuing medical education, certification of compliance of probationary terms and payment of administrative and probation monitoring fee.

JASON MICHAEL HEBERT, PA, Baton Rouge, No. 08-I-485. *Charges*— Practicing without physician supervision; engaging in the functions of a physician assistant without direction and supervising at a location or locations as specified to the Board; and violation of any provision of this Chapter or of rules or regulations of the Board, R.S.37:1360.33(3), La.Adm.C. 46.4505E(1) and (4), and 4513A(16). Disposition -Consent Order for Reprimand entered August 18, 2008. Physician assistant's license officially reprimanded. Physician assistant's license subject to evidence to the Board's satisfaction of the Board's

rules and regulations and payment of administrative fine.

THERESA HOLMES, CRT, New Iberia, No. 08-I-128. *Charges*—...guilty of unprofessional conduct; habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence; inability to practice respiratory care with reasonable competence, skill or safety to patients; R.S., 3358(A)(7), (15) and La.Adm.C 46:5519A(5), and (13). *Disposition*- Consent Order entered August 18, 2008. Respiratory Therapy license placed on probation for a period of five (5) years, subject to participation in the Board's Allied Professionals Health Programs, continuing on-going treatment with specified written reports to the Board, periodic unannounced drug screens, maintenance of abstinence from the use of all mood-altering substances, compliance, completion of continuing professional education, notification to prospective employer of the order, self-reporting in writing of any terms of the order, certification of compliance of probationary terms and payment of probation monitoring fee.

CLAYT WALTER HULIN, PA, Baton Rouge, No. 07-I-722. *Charges*— Utilizing prescriptive authority in violation of any of the provisions of the Board's rules; practicing without physician supervision; engaging in the functions of a physician assistant without direction and supervising at a location or locations as specified to the Board; and violation of any provision of this Chapter or of rules or regulations of the Board, R.S.37:1360.33(3), La.Adm.C. 46.4505E(1) and (4), and 4513A(16). *Disposition* -Consent Order for Reprimand entered April 21, 2008. Physician assistant's license officially reprimanded. Physician assistant's license subject to evidence to the Board's satisfaction of the Board's rules and regulations and completion of continuing education on proper prescribing of controlled substances.

ANTHONY STEPHEN JASE, M.D., NEW ORLEANS, NO. 07-I-706. *Charges*— Prescribing, dispensing or administering controlled substances without medical justification or in other than a legal or legitimate manner; continuing or recurring medical practice which fails to satisfy the prevailing or usually accepted standards of medical practice in this state; violation of any rules or regulations of the Board or any provisions of this Part, R.S. 37:1285A (6), (14) and (30). *Disposition*-Consent Order entered April 21, 2008. Physician's license placed on probation for a period of three years, prohibition on ownership interest in, operation, contractual relationship with, be employed by, or have any other or have any other form of business or professional relationship or association with any pain-management clinic, any pain-management practitioner or any group of pain-management practitioners, prohibition on the prescription of Schedule II-V controlled substance, or the drugs Nubain, Dalgan, Soma, Ultram or Butalbital, completion of proper prescribing and record-keeping course, completion of continuing medical education, certification of compliance of probationary terms and payment of administrative and probation monitoring fee.

DAPHNE DAWN LIVELY, CRT, Rayville, No. 08-I-634. *Charges*— guilty of unprofessional conduct; habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence; inability to practice respiratory care with reasonable competence, skill or safety to patients, R.S., 3358A(7), (15) and La.Adm.C 46:5519A(5), and (13). *Disposition*- Consent Order entered August 18, 2008. Respiratory Therapy license placed on probation for a period of five (5) years, subject to participation in the Board's Allied Professionals Health Program, continuing on-going treatment with specified written reports to the Board, periodic unannounced drug screens, maintenance of abstinence from the use of all mood-altering substances,

limitation on practice of no more than eighty (80) hours in a two (2) week period, notification to employers or prospective employers, certification of compliance, completion of continuing professional education, self-reporting in writing of any terms of the order, certification of compliance of probationary terms and payment of probation monitoring fee.

CASEY JACOB MAUL, PA, OREGON, No. 07-I-401. *Charges*—Refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to act as a physician assistant in that state...; incompetency; violation of any provisions of this Part or rules and regulations of the Board or statute pertaining to physician assistants, R.S.37:1360.33 and La.Admin.C. LAC 46:XLV.4513 (9), (15) and (16). *Disposition* -Consent Order entered April 21, 2008. Physician Assistant's license placed on probation for a period of two years, subject to compliance with Washington Board Order, prohibition on prescriptive authority and payment of probation monitoring fee and fine.

NATALIE RENAE NEEDHAM, M.D., NEW ORLEANS, NO. 08-I-418. *Charges*— Fraud, deceit or perjury in obtaining any diploma, license or permit pertaining to this Part; providing false testimony before the Board or providing false sworn information to the Board, R.S. 37:1285A (3) and (4). *Disposition*-Consent Order for Issuance of Medical License entered July 21, 2008. Physician's practice restricted to her medical residency training program, completion of preceptorship on ethics and payment of monitoring fee.

KALA LYNN NEWTON, RRT, Shreveport, No. 06-I-575. *Charges*— Unprofessional conduct; R.S. 3358A. *Disposition*- Consent Order entered August 18, 2008. Respiratory Therapist officially reprimanded and license placed on probation for a period of three (3) years, subject to notification to employers or prospective employers, specified written reports to the Board, certification

of compliance and payment of probation monitoring fee.

JOSEPH N. PATTISON III, RRT, Arabi, No. 08-I-362. *Charges*—guilty of unprofessional conduct; habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence; inability to practice respiratory care with reasonable competence, skill or safety to patients, R.S., 3358A(7),(15) and La.Adm.C 46:5519A(5), and (13). *Disposition*- Consent Order entered July 21, 2008. Respiratory Therapy license placed on probation for a period of five (5) years, subject to participation in the Board's Allied Professionals Health Program, continuing on-going treatment with specified written reports to the Board, periodic unannounced drug screens, maintenance of abstinence from the use of all mood-altering substances, notification to employers or prospective employers, certification of compliance, completion of continuing professional education, self-reporting in writing of any terms of the order, certification of compliance of probationary terms and payment of probation monitoring fee.

JONATHAN JERARD ROBERTS, M.D., BATON ROUGE, NO. 08-I-331. *Charges*—Prescribing, dispensing or administering controlled substances without medical justification or in other than a legal or legitimate manner; recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice; violation of any rules and regulations of the Board, or any provisions of this Part, and the Board's Rules on Controlled Substances Used in the Treatment of Non-Cancer Related Chronic or Intractable Pain, R.S. 37:1285A(6),(14), and (30), and La.Adm.C.46.6915-6923. *Disposition* - Consent Order entered August 18, 2008. Physician's license placed on probation for a period of one year, prohibition on prescribing Schedule II-IV controlled substances, completion of continuing medical education, certification of

compliance of probationary terms and payment of monitoring fee.

GEORGE EDMOND SMITH, M.D., LAKE CHARLES, NO. 08-I-053. *Charges*—Habitual inability to practice medicine with reasonable skill and safety to patients; prescribing, dispensing or administering controlled substances without medical justification or in other than a legal or legitimate manner, R.S. 37:1285A(5),(25), and (6). *Disposition* - Interim Consent Order entered June 16, 2008. Physician's license suspended until further order of the Board.

legal guardians may be in the best way to ensure lifetime access which is in the patient's best interest.

Physicians must maintain the confidentiality of medical records as a matter of federal law (HIPPA). Physicians may not release medical records to another provider without the written permission of the patient or their legal guardian. In addition, medical records must be destroyed by secure means, such as shredding, when retention is no longer required. Consideration should be given to contracting with qualified providers to meet these requirements relating to access and destruction of records following the closure or relocation of a practice.

Board News

Work Force Trends

Over the past 3 years the number of physicians licensed to practice medicine in Louisiana decreased 3% from 16,207 to 15,670. The decrease is due entirely to a decrease in out of state licensees. The number of in-state licensees (11,580 presently) has in fact increased 5%

In the areas directly affected by the storms and floods of 2005, however, the number of physicians has decreased but the impact of this has been offset by decreases in the people living in these areas. In Orleans Parish, for example the number of physicians has decreased 29% but this has been offset by an even greater decrease in the people living in the parish of from 473,726 to 239,124 or 47% according to the US Census Bureau (2007 census data). This has resulted in an increase in the number of physicians per capita from 555 to 750 (35%)

It should be noted that the physician workforce in New Orleans includes many trainees and faculty of the two medical schools and many patients from the surrounding parishes all of which confounds the data. Conversely, in St Bernard Parish the number of physicians has decreased 88% (from 50 to 6) while the population has decreased "only" 69% resulting in a decrease in the number of physicians per capita from 77 to 30 (61%). More information and analysis of the physician as well as other licensee workforce trends is available on our web site at <http://www.lsbme.gov/>

Hurricane Gustav

On August 29 (Friday), the Board offices in New Orleans were closed when Hurricane Gustav entered the Gulf of Mexico - three years to the day after Hurricane Katrina hit the city of New Orleans. We implemented the evacuation approved by the Board in 2006 in the aftermath of the storms and floods of 2005. We reopened on September 8 (Monday).

Board staff moved to higher ground with their families like everyone else. Members of the evacuation team were equipped with laptop computers and were able to connect to our information system through secure connections on the internet throughout the storm. The connection gave us access to our web site and production applications including email, licensing and accounting systems which ran on our New Orleans servers without interruption.

We were prepared to switch to a back system in Baton Rouge if we lost power in New Orleans but this did not occur. Our back up system in Baton Rouge is located in a secure facility maintained by the government. This facility was operational throughout the storm with backup power even

though parts of Baton Rouge were without power for more than one week.

We posted a series of notices on our web site relating to the office closure and reopening, contact information, emergency temporary permits, and renewals affected by the closure and were able to respond to email, fax and voice mail requests for assistance and to issue emergency temporary permits for physicians to work in New Orleans with the City Health Department. A newly established service which provided voice mail (800 480 1922) and Fax mail (888 578 2224) through the internet worked well.

Perspectives

Little Evidence of Physician Sanctions for Prescribing Pain Medications

A new study that includes disciplinary data from state medical boards suggests physician concerns over publicized prosecutions for prescribing pain medications are disproportionate to actual numbers of legal and regulatory actions. The study, conducted by the FSMB, the National Association of Attorneys General (NAAG) and the Center for Practical Bioethics, was published in the Sept. 9, 2008, edition of Pain Medicine. The study incorporated data from 1998-2006. Its findings include:

- 725 physicians were identified as having been prosecuted or sanctioned for such violations during the eight-year timeframe, or only about 0.1 percent of nearly 700,000 practicing patient care physicians in the United States.
- Most of the patient care doctors identified in such cases were primary care physicians rather than specialists in other fields, including pain medicine. Among the 725 physicians involved in these cases, only 25 were pain medicine specialists or self-identified as such. In contrast, general practice/family medicine physicians accounted for 285.
- In 2005 and 2006, the Drug Enforcement Administration reported having investigated an average of only four to five doctors per state each year for possible criminal offenses connected with improper prescribing or handling of pain medications.

The study continues the FSMB's support of the Balanced Pain Policy Initiative with the Center for Practical Bioethics and the NAAG. An abstract of the study can be accessed at <http://www.ama-assn.org/amednews/2008/09/08/prsb0908.htm>

Reentering Practice

The Physician Re-entry into the Workforce Project, a national collaborative effort developing resources for physicians seeking to re-enter the workforce after an extended absence, has launched a redesigned website at <http://www.aap.org/reentry>. The new site includes resources for physicians seeking to re-enter the workforce, as well as updates about the ongoing work of the Re-entry Project. Representatives from the FSMB serve on two of the project's workgroups.

Medical Access and Workforce Shortage

The U.S. Department of Health and Human Services (HHS) recently released two reports developed by the Council on Graduate Medical Education (COGME), a group formed to provide recommendations to HHS and Congress on physician workforce issues. The first report, "[New Paradigms for](#)

Physician Training for Improving Access to Healthcare,
focuses on solving medical access problems facing the
nation's rural areas and the urban uninsured. The second
report, "Enhancing Flexibility in Graduate Medical
Education," covers the inflexibility of residency training
programs, largely due to the restrictions on the number of
positions and training sites available. For more information,
go to <http://coqme.gov/pubs.htm>.

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