



Alabama Board of Medical Examiners Newsletter and Report

www.albme.org

April – June 2008

Volume 23, Number 2

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Using the PDMP controlled substances database Web site

by George C. Smith, Jr., MD

Dr. Smith practices family and emergency medicine in Lineville and Anniston, Alabama. He is board certified in family medicine and has been a member of the Board of Medical Examiners since 2005.



George C. Smith Jr., MD

The Prescription Drug Monitoring Program (PDMP) of the Alabama Department of Public Health (ADPH) includes a database of controlled substances prescriptions that physicians, other licensed practitioners, regulatory agencies and law enforcement may access through the Internet. Information may be obtained about the controlled substance usage of a patient, including drugs prescribed; prescriptions from other physicians; multiple pharmacies being used; etc. Law enforcement and regulatory agencies may obtain profiles of individual practitioners' controlled substance prescribing profiles. The database is being used by many practitioners, regulatory and law enforcement agencies in the state of Alabama.

Why was this program established and what does it do?

As Figure 1 demonstrates, the non-medical use of prescription drugs is rampant in the United States. This problem is particularly acute for pain relievers and tranquilizers. As Figure 2 shows (see page 3), many of these drugs were obtained from friends and relatives. Most of these prescriptions, however, were legally obtained from persons with prescribing authority. Alabama ranks in the top 20 of all prescription diversion categories, including being ranked second in the use of Demerol and fifth in the use of hydrocodone.

Alabama Legislative Act 2004-443 authorized the ADPH to establish a database for the collection of controlled substances prescribing and dispensing data. All of the information in this database is privileged and confidential and is only to be used for investigatory or evidentiary proceedings. The database receives reports from licensed physicians, dentists, podiatrists, optometrists and veterinarians who dispense controlled substances*, as well as ambulatory and outpatient hospital departments and pharmacy

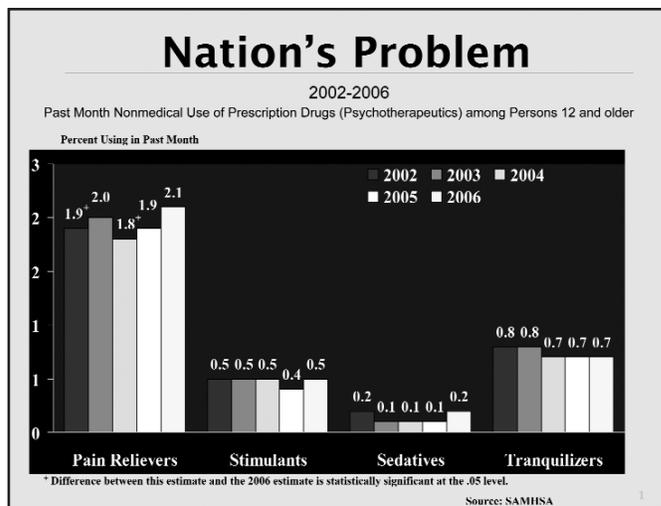


Figure 1

(continued on page 3)

Alabama
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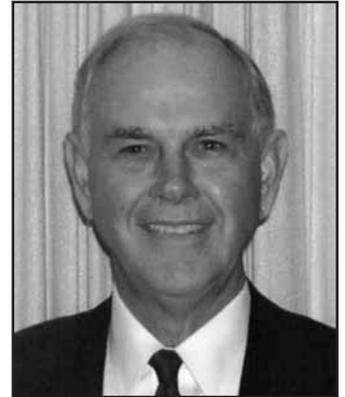
Larry Dixon, Executive Director
Patricia Shaner, General Counsel

Carla Kruger, Staff Editor

A Message from the Executive Director BME, MLC do not send junk mail

by Larry Dixon

The Alabama Board of Medical Examiners recently sent Letters of Concern to a large group of physicians for failing to respond to five requests from the Board, written and telephonic, for information concerning collaborative practice agreements with nurse practitioners. Several of the physicians who received Letters of Concern, a non-disciplinary action indicating the Board's concern about *potential* issues, contacted the Board, questioning the reasons for receiving the Letter of Concern and implying they never saw any of the Board's correspondence. Two of the five contacts were letters sent "return receipt requested," and the return receipts returned to the Board's office had been received and signed for by the physician's office personnel.



Larry Dixon

The members of the Board, 15 practicing physicians, are aware of the volume of junk mail a physician receives in the office every day. However, the Board does not understand how official correspondence from the state licensure and regulatory agency can go unnoticed by a practicing physician. Many physicians claim they never received the letter: "It was intercepted by my insurance clerk/office manager and I was never told," etc.

The Board wants every physician who is licensed by the Medical Licensure Commission and regulated by the Alabama Board of Medical Examiners to know that these two agencies **do not** send junk mail. It would behoove a physician to inform his or her entire staff that when a letter arrives from the Board of Medical Examiners or the Medical Licensure Commission, they are to notify you immediately, and place the letter, unopened, on your desk. Doctors, please remember this and remind your office staff that your licensure board doesn't send junk mail.

Ambulance Transport Rules

In response to continued complaints and confusion regarding rules regulating ambulance transport, the Alabama Department of Public Health asked the Board to provide this update. Patients have the right to choose the hospital to which they wish to be transported, and Alabama ambulance services are required to transport patients to the hospital of their choice, even if that hospital's emergency department is on diversion or the hospital is not appropriate for their medical problem. A physician on duty in a hospital emergency department cannot refuse to see a patient who presents to the emergency department, even if the department is attempting to divert patients to other hospitals because of an overload status. If you have questions about this or other EMS rules, please contact the Office of Emergency Medical Services and Trauma at (334) 206-5383.

On the Net:

Alabama EMS and Trauma web site: <http://www.adph.org/ems/>

Prescription Drug Monitoring Program

continued from page 1

entities, including mail order and pharmacy benefit programs filling prescriptions to patients in Alabama. The goal of this Act was to establish a statewide database of all Schedule II, IIN, III, IIIN, IV and V medications prescribed and dispensed that could assist in preventing diversion, abuse and misuse of controlled substances and that could be used by Alabama regulatory and law enforcement agencies in the enforcement of laws concerning controlled substances. Figure 3 lists the top 10 controlled substance prescriptions reported to the database at April 2008.

Who has access and how is it obtained?

Regulatory boards, state licensed practitioners, state licensed pharmacists, and state, local and federal law enforcement authorities can obtain access to the PDMP. Eligible practitioners may sign up for a password at the ADPH Web site and obtain the practitioner access request and privacy statement forms. These need to be filled out and a password will be created. The password is then sent in for approval. The PDMP technical support staff will notify you via two separate e-mails that will include links to the Web site, your log-in ID, and confirmation of your approved password.

Once you are able to log into the system, you can query the database using information that you provide, including patient's name, date of birth, sex and address if needed. The system will then generate a report that lists controlled substances prescribed and dispensed to the patient, dates of prescriptions, names of prescribers and names of pharmacies.

Limitations on accuracy of data.

There are some issues with information obtained through the PDMP including:

- Incorrect biographical information on the patient
- Multiple addresses or names for an individual patient
- Family members' names used by the deceptive patient
- Incorrect prescribers' names input by pharmacies
- Out-of-state pharmacies may not always report
- The available data may not be timely

Staff of the ADPH and other regulatory agencies are working to resolve these issues. Attempts are being made to develop regional and national compacts with the 25 other states that have a program similar to Alabama's. There is hope that a cooperative agreement may be reached that stretches across state lines to help minimize drug diversion. The PDMP Web site staff is working diligently to improve the speed and usability of the site.

What this means to you.

As of April 30, 2008, over 24.5 million prescriptions have been logged into the database. Forty one percent of those are hydrocodone combinations and 12 percent are alprazolam.

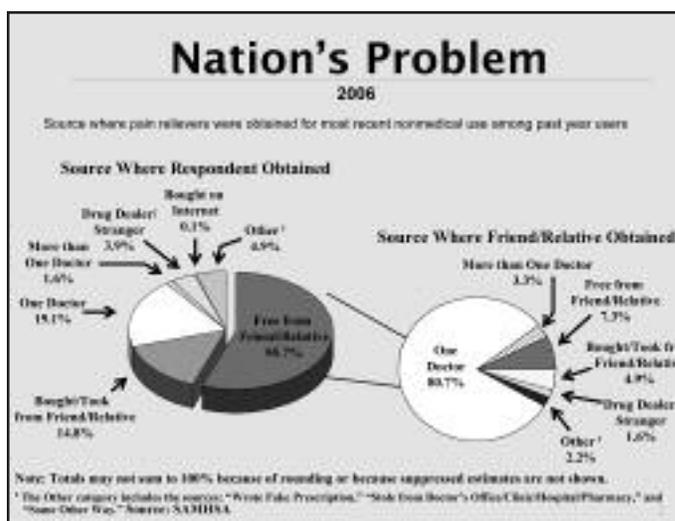


Figure 2

	Controlled Substance Generic Name	Number of RX	% of the top 10
1	HYDROCODONE BITACETAMINOPHEN	1,180,735	41%
2	ALPRAZOLAM	545,590	12%
3	ZOLPIDEM TARTRATE	264,023	9%
4	CLONAZEPAM	236,816	8%
5	PROPOXYPHENE/ACETAMINOPHEN	211,161	7%
6	LORAZEPAM	151,807	6%
7	AMPHET ASP/AMPHET/D-AMPHET	128,288	5%
8	PHENYLEPHRINE/HYDROCODONECP	122,440	4%
9	OXYCODONE HCL/ACETAMINOPHEN	113,851	4%
10	PRIGABALIN	113,081	4%

Figure 3

More than 78,000 requests for information have been received, and the vast majority are requests by medical personnel. The Board would like to see an increase in the number of practitioners signed up to use the Web site. As of May 6, 2008, this number was 1,538. The Board encourages all qualified physicians to be a part of this program. Many practitioners find it useful on a daily basis. Any physician who prescribes controlled substances to Alabama residents should utilize this program.

**A physician dispenses controlled substances when the controlled substances are purchased by the physician for distribution or sale to the patient for off-site use. Distributing samples is not considered dispensing.*

On the Net:

Act 2004-443: <http://arc-sos.state.al.us/CGI/SOS-ACT10.MBR/OUTPUT>

ADPH Prescription Drug Monitoring Program:

<http://www.adph.org/PDMP/>

Alabama BME Dispensing Physician Requirements:

<http://www.albme.org/Default.aspx?Page=RegistrationDispensing>

Compliance with rules concerning use of lasers and other modalities affecting living tissue required soon

In September 2007, the Board's guidelines for the use of lasers and other modalities affecting living tissue became effective. The deadline for compliance with the rules is Aug. 15, 2008.

Who is affected?

The rules affect physicians providing ablative and non-ablative treatments that utilize lasers/pulsed light devices or any energy source, chemical, or other modality that affects living tissue (when referring to the skin, anything below the statum corneum), whether applied for surgical, therapeutic or cosmetic purposes.

Who may perform what procedures?

The use of lasers/pulsed light or other energy devices for **ablative** procedures may only be performed by a physician.

The use of lasers/pulsed light or other energy devices for **non-ablative** procedures may be delegated to a Level 1 Delegate¹ or a Level 2 Delegate², but these procedures cannot be delegated to Level 2 Delegates without the delegating/supervising physician being on-site and immediately available. Electrocautery may be

used by a Level 1 or Level 2 Delegate under direct physician supervision³. Prior to any non-ablative initial treatment, the physician must examine the patient, establish a treatment plan, and sign the patient's chart.

Supervision

The rules state what will be considered adequate supervision, which includes (but is not limited to) the formulation or approval of a written protocol, evaluating the technical skills of the delegate and responding appropriately to complications and untoward effects of the procedures. All physicians subject to these rules should carefully read and comply with this (and every) section of the rules.

Education requirements

The rules state particular education requirements for physicians, Level 1 and Level 2 Delegates. Physicians are responsible for ensuring they and any delegates meet these requirements prior to performing any of these procedures.

Quality assurance program

The Board requires that physicians ensure there is a quality assurance program for the facility where non-

ablative procedures are performed. The rules further specify what should be included in a quality assurance program.

Registration requirement

Physicians who use or offer to use a laser/pulsed light device in any facility other than a hospital must register with the Board.

On the Net:

Board's web page about use of lasers (includes link to rules):
<http://www.albme.org/Default.aspx?Page=UseOfLasers>

¹Level 1 Delegate – a mid-level practitioner (physician assistant or advanced practice nurse) who is authorized in a written job description or collaborative protocol to use a specific laser/pulsed light device or other energy source, chemical or other modality for non-ablative procedures, as designated in the written job description or collaborative protocol and who has met the educational requirements for a Level 1 Delegate stated in the rules.

²Level 2 Delegate – any person, other than a Level 1 Delegate, who has met the educational requirements for Level 2 Delegates stated in the rules.

³Direct supervision is defined as: "the physician is in the physical presence of the patient being treated and is directly observing the use of the modality by a delegate."

Meet the staff Collaborative practice inspectors

In September 2003, **Cheryl Thomas, RN**, joined the Board's staff to inspect physicians' collaborative practices with CRNPs and CNMs to determine compliance with the collaborative practice rules. Prior to joining the Board staff, Ms. Thomas spent a number of years as Director and Assistant Director of Nursing for several long term care facilities. She holds an associate degree in nursing, a bachelor's degree in education,

and a master's degree in management.

In January 2006, the Board retained **Patricia Enfinger, RN**, as an additional collaborative practice inspector. Ms. Enfinger practiced nursing for almost 25 years in the areas of CCU, telemetry, outpatient surgery, GI lab and rheumatology. Additionally, she worked as a legal nurse consultant for five years. Ms. Enfinger holds an associate degree in nursing.

A mid-level practitioner may only practice in a hospital where the mid-level practitioner and his or her supervising or collaborating physician both have privileges.

Meet the Board

Richard M. Freeman, MD, is a pediatrician who has been in private practice in Auburn, Alabama, since 1975. Dr. Freeman has been a member of the Board of Medical Examiners since 2004. He received his bachelor's degree at North Carolina State University and his medical degree at University of North Carolina School of Medicine.

After completing an internship and pediatric residency at the University of Alabama at Birmingham, he worked as a medical officer at the Jacksonville, Fla., Naval Air Station Hospital before returning to Alabama to enter private practice. Dr. Freeman is certified by the American Board of Pediatrics. Dr. Freeman enjoys pho-



Richard M. Freeman, MD



Steven P. Furr, MD

tography and exercise, and he and his wife are active members of Opelika First Methodist Church.

Steven P. Furr, MD, a family practice physician in private practice in Jackson, Alabama, has been a member of the Board of Medical Examiners since 2001 and was elect-

ed Vice Chairman of the Board in May 2008. He received his bachelor's and medical degrees at the University of South Alabama College of Medicine. After completing post-graduate training at Huntsville Hospital, Dr. Furr established a group practice with Dr. Sid Crosby in Jackson that now has five family physicians and two nurse practitioners. He is certified by

the American Board of Family Medicine. In addition to being a trustee of the University of South Alabama, he is also active in the United Methodist Church. He was recently elected the conference lay leader. His wife Lisa works with gifted students in the public schools.

Retired Senior Volunteer Program

In 2005, the Board and Commission created a new category for licenses issued under Retired Senior Volunteer Program (RSVP) so that physicians who are fully retired from the active practice of medicine may obtain limited licenses at no cost which permit them to provide outpatient health care services at established free clinics operated pursuant to the Volunteer Medical Professional Act.

Physicians with RSVP licenses must perform at least 100 hours of voluntary service annually and must limit their practices to an established free medical clinic only.

Qualifications of eligible physicians include having or having had a full, unrestricted license in good standing in Alabama or another state,

certification that the individual is fully retired and intends to limit his or her medical practice to an established free medical clinic, certification of the arrangements or agreement with the free medical clinic, and being in good health. Physicians holding RSVP licenses are subject to the same continuing medical education requirements as physicians with full licenses.

The Volunteer Medical Professional Act provides immunity for an RSVP licensee from any civil action *except* if the physician acted or failed to act in a wilful or wanton manner.

Consequently, the Act provides immunity for RSVP physicians from typical medical malpractice cases. In addition, the Act states the immunity does **not** apply unless the clinic posts "in a

conspicuous place on its premises" an explanation of the immunity from civil liability provided by the law.

Because of the intricacies of the law, its fluid nature and the fact that other statutes may affect physician liability, the Board is not stating that RSVP licensees are "bulletproof." If you have questions about liability in your particular situation, please consult an attorney.

On the Net:

RSVP license:

<http://www.albme.org/Default.aspx?Page=RSVP>

Volunteer Medical Professional Act (scroll down to §6-5-660):

<http://alisdb.legislature.state.al.us/acas/CodeOfAlabama/1975/123825.htm>

REMINDER:

The Board considers the injection of Botox, Mesotherapy, Restylane, collagen and other fillers to be the practice of medicine and as such, each procedure must be performed by a licensed physician. These procedures may not be delegated to a PA, CRNP or any other assistive personnel.

Be certain your CME is Category 1

As you know, the annual requirement for CME is 12 Category 1 hours earned or accrued during the calendar year. To confer Category 1 hours, the organization offering the activity must be accredited by the AMA or MASA.

The Board continues to see instances where physicians mistakenly thought the CME they earned was Category 1. Ignorance of what type of continuing education a physician received will not be accepted as an excuse for not having met the CME requirement.

A few CME activities which **do not** meet the requirement:

- **Acting as a nurse preceptor** (this confers Category 2 hours)
- Teaching classes at medical school
- Some ACLS and PALS courses are not accredited to confer Category 1 hours
- Completing journal quizzes but not sending them to the provider
- CEUs, CEs, contact hours

It is important to confirm the accreditation of the organizations conducting the continuing education activities you complete or plan to complete. If the brochure or announcement does not specify Category 1 hours, check with the entity presenting the activity. If you are completing some type of activity that is not a formal seminar or journal quiz, such as grand rounds or making a presentation, be certain these activities are Category 1 equivalent **before** certifying on your license renewal application that you have met the requirement and sufficiently far in advance of the end of the year so that you have time to earn the required hours if you discover that your educational activity was not accredited.

On the Net:

Category 1 equivalents:

<http://www.albme.org/Default.aspx?Page=cat1expl>

Board's CME web page:

<http://www.albme.org/Default.aspx?Page=CME>

Report from FSMB addresses improper prescribing via Internet

According to the Federation of State Medical Boards' *RxBeat*, the newsletter for the National Clearinghouse on Internet Prescribing:

- A physician licensed in Florida was fined \$10,000, received a letter of concern and other penalties, but kept his license, in settlement of an investigation by the Florida Department of Health concerning the illegal distribution of steroids and human growth hormone via the Internet.
- A physician licensed in Colorado and Nebraska pled guilty in January in Federal court to dispensing illegal steroids. According to court documents, he worked with the pharmacy which was named in the Mitchell Report, in which former Senator George Mitchell investigated rampant steroid use in Major League Baseball. Two other physicians have also been implicated.
- A licensed physician from Hawaii was charged in early 2008 with unlawful distribution of com-

pounded Hydrocodone through an Internet pharmacy. He currently is awaiting sentencing in the Federal court.

- A physician licensed in Puerto Rico and Michigan pled guilty in early 2008 to conspiracy to distribute phentermine and conspiracy to commit money laundering. He had signed a contract with a corporation operating an Internet website to prescribe medications for Internet customers.
- Recent disciplinary actions taken by state medical boards against physicians who prescribed medicine via the Internet include a Kentucky physician who surrendered his license in March 2008 and a Michigan physician whose license was suspended in January 2008 for a minimum of six months and one day.

On the Net:

Federation of State Medical Boards' *RxBeat*:

http://www.fsmb.org/ncip_newletter.html

Internet prescribing legislation passes in U.S. Senate

According to the Federation of State Medical Boards, the "Ryan Haight Online Pharmacy Consumer Protection Act of 2008" (S.980), which would regulate the sale of controlled substances over the Internet, was unanimously passed by the U.S. Senate on April 1. The bill would bar the sale, distribution and delivery of a controlled substance via the Internet without a valid prescription, require online pharmacies to display identifying information, including the identity of any physician associated with the site, and increase penalties for illegal distribution of medications in Schedules II - V. The bill is now before the House of Representatives.

On the Net:

S.980 - Search by bill number at <http://thomas.loc.gov>

Report of Public Actions of the Medical Licensure Commission and Board of Medical Examiners

MLC – April 2008

◆ On April 2, the Commission revoked the license to practice medicine in Alabama of **Terry E. Jacobs, MD**, license number MD.25807, Kinston, GA.

◆ On April 2, the Commission entered an Order requiring as a condition of maintaining his license to practice medicine in Alabama, **William E. Tiemann, MD**, license number MD.26716, Houma, LA, shall maintain, indefinitely, an advocacy contract with the Alabama Physicians Health Program.

◆ Based upon the stipulation of the parties, on April 23, the Commission entered a Consent Order assessing an administrative fine and costs against **Lawrence J. Parker, MD**, license number MD.13492, Mobile, AL.

◆ Based on the stipulation of the parties, on April 28, the Commission entered a Consent Order reprimanding the license to practice medicine in Alabama of **Robert Mark Ritchea, MD**, license number MD.19887, Phenix City, AL, assessing an administrative fine and costs, requiring continuing medical education and providing for monthly record reviews with quarterly reports to the Commission.

BME – April 2008

◆ Based on the stipulation of the parties, on April 16, the Board entered a Consent Order concerning the Alabama Controlled Substances Certificate of **Larry Taylor Bolton, MD**, license number MD.5951, ACSC number ACSC.5951, Scottsboro, AL, that restricts his prescribing authority in Schedules II - V to nursing home and hospital settings only.

◆ On April 16, the Board accepted the voluntary surrender of the certificate of qualification and license to practice medicine in Alabama of **Deborah L. Levich, MD**, license number MD.25207, Roswell, GA. Dr. Levich is no longer authorized to practice medicine in Alabama.

◆ On April 16, the Board denied the application for a certificate of qualification to practice medicine in Alabama of **Nedal Masoud, MD**, Campbell, CA.

◆ On April 21, **Timothy A. Gooden, MD**, license number MD.27029, Warrior, AL, signed an Amended Voluntary Restriction which further specifies authorized locations to practice medicine in Alabama.

MLC – May 2008

◆ On May 15, the Commission entered an Order restoring to full and unrestricted status the license to practice medicine in Alabama of **Robert W. Chagrasulis, MD**, license number MD.25231, Calais, ME.

◆ On May 28, the Commission entered an Order summarily suspending the license to practice medicine in Alabama of **Gregory A. Johns, MD**, license number MD.17135, Dothan, AL, until such time as the Administrative Complaint shall be heard by the Commission and a decision rendered thereon.

◆ On May 28, the Commission entered an Order summarily suspending the license to practice medicine in Alabama of **Ervin Wells, MD**, license number MD.28241, Brewton, AL, until such time as the Administrative Complaint shall be heard by the Commission and a decision rendered thereon.

BME – May 2008

None.

MLC – June 2008

◆ Based upon the stipulation of the parties, on June 25, the Commission entered an Order reprimanding the license to practice medicine in Alabama of **William C. Bingham, MD**, license number MD.12189, Fairhope, AL, and assessing an administrative fine for failure to meet requirements concerning continuing medical education.

◆ On June 25, the Commission entered an Order revoking the license to practice medicine in Alabama of **Swaroop N. Nyshadham, MD**, license number MD.13121, Valley, AL.

Based upon the stipulation of the parties, on June 25, the Commission entered an Order reprimanding the license to practice medicine in Alabama of **Sidney Kelton Pace, MD**, license number MD.17785, Mobile, AL, assessing an administrative fine and requiring continuing medical education.

◆ Based upon the stipulation of the parties, on June 25, the Commission entered an Order reprimanding the license to practice medicine in Alabama of **Peter Strom Selikoff, MD**, license number MD.12189, Fairhope, AL, and assessing an administrative fine for failure to meet requirements concerning continuing medical education.

BME – June 2008

None.



Alabama State Board of Medical Examiners

Newsletter and Report

Alabama Board of Medical Examiners
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*Look inside
for important news
from the Board of Medical
Examiners that pertains to your
license to practice medicine
in Alabama.*

All current licensees receive the *Board of Medical Examiners Newsletter and Report* at their address of record at no charge. Licensees may also choose to receive the newsletter by e-mail. Non-licensee subscriptions to the newsletter are by e-mail only.

If you would like to receive the newsletter by e-mail, please send a request to bmenews@masalink.org.

Change of Address

Alabama law requires that every licensed physician notify the Board of Medical Examiners in writing within **15 days** of a change of the physician's practice location address and/or mailing address.