



Alabama Board of Medical Examiners Newsletter and Report

www.albme.org

July – September 2009

Volume 24, Number 3

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2010 Renewals

Medical license • Physician/Anesthesiologist Assistant license • Collaborative Practice Registration Fee • Alabama Controlled Substances Certificate registration

All license and registration renewals expire annually on December 31. Renewal notices for all licenses and registrations are mailed to the licensee’s mailing address of record in the form of an orange postcard beginning October 1. Licenses, ACSCs and Collaborative Practice Registrations are all listed on one postcard. The postcard contains instructions for renewing online or by mail. The postcard also contains the unique ID number (different from your license number) you will need to renew or print your renewal forms online. In November a second orange postcard will be mailed to all active licensees who have not yet renewed.

While there is a “grace period” for medical license renewals that allows physicians to renew licenses after December 31 and until January 31 for an extra \$100, there is no grace period for PA/AA licenses, ACSCs or Collaborative Practice Registration Fees. These fees must be paid by December 31. Nonpayment results in automatic inactive status on January 1.

Renewal fees have not increased for 2010 and are as follows:

- MD/DO license renewal: \$300
- ACSC renewal: \$150
- PA/AA license renewal: \$100

see Renewals, page 3

Licensees should complete the renewal applications personally, whether online or by paper form.

CME requirements for 2011 renewal

On July 15, 2009, the Board voted to increase the continuing medical education requirement for physicians and physician assistants to 25 *AMA PRA Category 1 Credits™* (or equivalent) annually, effective January 1, 2010.

Credits earned in excess of the 12 credit requirement for 2009 may be added to credits earned in 2010 to meet the new 25 credit requirement. After that, there will be no “rollover” provision; consequently, beginning in 2011, all 25 required credits must be earned in each calendar year, and excess credits may not be applied to the next year.

On the Net:

Board’s web page about CME: <http://www.albme.org/Default.aspx?Page=CME>

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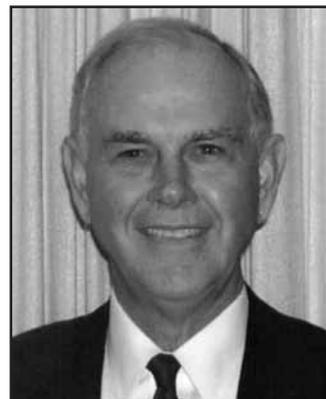
Larry Dixon, Executive Director
Patricia Shaner, General Counsel

Carla Kruger, Staff Editor

A Message from the Executive Director New Tennessee law says failing to report suspected ‘doctor shoppers’ is a felony

by Larry Dixon

I recently acquired a copy of the state of Tennessee’s Senate Bill No. 408, which passed the Tennessee Legislature and became effective on July 1, 2009. The law is very brief, stating that certain healthcare practitioners must report to local law enforcement within three business days any patient they have “good reason to believe” is doctor shopping. Doctor shopping is the practice of drug diversion artists who go from doctor to doctor with false ailments, attempting to obtain controlled substances, either for personal addictions or street sale. The law does provide immunity from civil liability for a “good faith” report and further specifically



Larry Dixon

defines a doctor shopper as “... a person who deceives or fails to disclose to a healthcare practitioner that they received either the same or a similar controlled substance prescription from another practitioner within the previous 30 days.” A violation of this new law by a practitioner is a Class D felony. What totally amazes me is the doctor shopper’s violation is a Class A misdemeanor. “Good reason to believe” is a subjective judgment. Doctor shopping is now given a statutory definition in Tennessee.

The passage of this law creates many questions in my mind. What could the sponsors of this legislation have had in mind? Where were the physicians in the Tennessee Medical Association when this legislation worked its way through both the Tennessee House and Senate and became law? Obviously, the sponsors of the legislation were concerned, as are many citizens and entities in Alabama, about the practice of doctor shopping. This attempt by the Tennessee Legislature at a solution to that problem is astounding. The practitioner who is fooled and fails to have “good reason” to report a patient is guilty of a felony, while the drug diversion artist, if caught and convicted, is only guilty of a misdemeanor.

I bring this information to the licensed physicians of Alabama for a reason. Many of you have licenses in the state of Tennessee. This law now applies to you for any patients you may have from Tennessee. I also bring it to your attention to emphasize the need to stay in touch with your state legislature through your state medical association, specialty association organization, county medical society, etc. There is no way this legislation could have ever passed the Alabama Legislature because of the strong presence of the state medical, dental, optometry and veterinary associations. Those organizations constantly monitor the Legislature, read every bill that is introduced that could possibly pertain to the profession, and keep legislation like this from passing in Alabama.

I have asked the Board’s legal department to provide a strictly legal interpretation of this new Tennessee law to provide further testament to the situation Tennessee physicians are now in.

continued on page 3

Renewals

continued from page 1

- Collaborative Practice Registration Fee: \$100 per CRNP supervised (no fee for covering physicians)

Be sure you have documentation of having met the current CME requirement of 12 *AMA PRA Category 1 Credits™* or equivalent credits earned or accrued in 2009 **before** you certify that you have it! Do not send the documentation with your renewal; just be sure it is complete and accessible in case you get chosen for the random CME audit. If you have any questions about your CME credits or documentation, feel free to contact the Board's CME Review Coordinator, Mrs. Meredith Marshall, at mmarshall@albme.org or (334) 242-4116.

Licensees are reminded that, due to the nature and

importance of the questions asked on renewal applications, they should complete the application personally, whether online or by paper form. If someone else completes your application, you are responsible for the accuracy of the information.

On the Net:

For more detailed information about online renewals, see <http://www.albme.org/Default.aspx?Page=2010RenewalInfo>

Board/Commission renewal site:

www.alrenewals.org

Doctor Shoppers

continued from page 2

The Tennessee statute requires that the physician have a "good reason to believe," which is synonymous with the term, "reasonable belief," which is used in many Alabama statutes and cases. These two concepts form the basis of the legal term, "probable cause," to which law enforcement officers must swear before executing search warrants or arrest warrants. Probable cause is the minimum level of evidence of a crime that must be present for an arrest. The basis of "reasonable belief" and "probable cause" can come from four sources:

- 1) observation (the direct detection of a crime or pattern of suspicious behavior);
- 2) expertise (skills of detection gained in special training);
- 3) testimony (reports by witnesses, informants or other people);
- 4) circumstantial evidence (directly implies that a crime has occurred but is not necessarily proof).

By requiring physicians to be vigilant in having a "good reason to believe" that a patient is doctor shopping, obtaining drugs by fraud or otherwise violating a drug statute, the Tennessee statute has imposed onto Tennessee physicians the burden of, in effect, being a law enforcement officer. While every good physician is well advised to be aware of these tendencies in patients, to impose criminal sanctions by making his failure to do so a felony imposes an obligation on the physician that is more concerned with criminal punishment than it is with the welfare of patients.

As to what constitutes "good reason to believe," various legal authorities have stated that such reasons need to be based on facts and/or circumstances which can be articulated by the physician. Mere belief alone is not enough, and neither are suspicion, hunches, or "feelings." As one 1992 Eleventh Circuit case has stated, a reasonable belief "must be based on 'credible evidence,'" and "credible evidence" is evidence that is both believable and articulable.

I can only imagine the situations in which physicians in Tennessee are going to find themselves. They only have civil immunity when they report a patient to law enforcement in "good faith." In Alabama, this bill would have been classified as a "Lawyer's Bill."

www.albme.org

The following forms are available on the BME's Web site:

- Retired Senior Volunteer license application
- CME worksheet
- Request for waiver from CME due to retirement
- Address change form
- Application for replacement of lost or destroyed license
- Malpractice payment report form for insurance companies
- Dispensing physician registration form
- Office based surgery registration form
- Office based surgery adverse event reporting form
- Laser/pulsed light device procedures registration form
- Laser/pulsed light device procedure adverse event reporting form
- Notification of commencement or termination of collaborative practice
- Collaborative practice QA forms, chart review audits

Prescribing controlled substances by PAs

In the last issue's *Message from the Executive Director*, Mr. Larry Dixon discussed a new law that authorizes qualified, approved Physician Assistants (PAs) to prescribe controlled substances in Schedules III, IV and V. The Board of Medical Examiners is in the process of developing administrative rules that will specify the application procedures, fees, fines, punishments and conduct of disciplinary hearings concerning the Qualified Alabama Controlled Substance Certificates (QACSC).

Pursuant to the new law (Act 2009-489), the Board may grant a QACSC to a PA who:

- Is practicing with appropriate physician supervision
- Submits proof of successful completion of certain courses to include advanced pharmacology relating to controlled substances (the Board is in the process of determining approved courses and number of hours required)
- Provides documentation of a minimum of 12 months of active, clinical employment with physician supervision following National Commission on Certification of Physician Assistants certification

PAs who are issued a QACSC by the Board and a valid registration number from the DEA may prescribe, administer, authorize for administration or dispense only those controlled substances in Schedules III, IV and V in accordance with protocols and formularies approved by the supervising physician and the Board. These protocols and formularies will specify

which schedules and/or specific drugs the PA may prescribe. PAs may not use their QACSCs for purchasing, obtaining, maintaining or ordering of any stock supply or inventory of any controlled substance in any form. The law also states that a PA shall not prescribe, administer or dispense any

controlled substance to his or her own self, spouse, child or parent.

The law sets out the grounds upon which the Board may deny an initial or renewal QACSC application or initiate a discipli-

nary action. These grounds include:

- Fraud or deceit in applying for a QACSC
- Conviction of a crime relating to controlled substances
- Conviction of a crime or offense which affects the ability of the PA to practice with due regard for the health or safety of his or her patients
- Prescribing a drug or utilizing a QACSC in such a manner as to endanger the health of the patient
- Suspension or revocation of the PA's DEA registration number
- Excessive dispensing or prescribing of any drug to any person or patient of the PA
- Unfitness or incompetence due to

the use of or dependence on alcohol, chemicals or any mood altering drug to such an extent as to render the P.A. unsafe or unreliable to prescribe drugs or hold a QACSC

At this writing, the Board has not yet established the application and renewal fees for QACSCs. This information, along with the administrative rules when they are published for public comment, will be available at the Board's web site. The Board anticipates beginning to accept applications and issue QACSCs after January 2010.

The law also amends provisions concerning the Department of Public Health's Prescription Drug Monitoring Program (PDMP) database. PAs with QACSCs will be authorized to query the database, limited to information concerning a current or prospective patient, and physicians will be authorized to query the database concerning PAs under their supervision. As with the physicians' ACSCs, the Board will be required to collect \$10 per year on each QACSC to be remitted to the Health Department for the operation and maintenance of the PDMP database.

On the Net:

Act 2009-489: <http://arc-sos.state.al.us/PAC/SOSACPDF.001/A0007123.PDF>

PDMP:

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

Physician Assistants - you are required to keep a copy of your Registration Agreement for each physician to whom you are registered. In addition, you should provide copies to your employers and facilities where you work.

Meet the Board

Juan Johnson, MD, a Board member since 2005, is a board certified physician specializing in internal medicine in Birmingham, Alabama, where he has practiced since 1985. Dr. Johnson received his bachelor's of science degree in biology and French from the University of Alabama at Birmingham and his medical degree from the University of Alabama School of Medicine in Birmingham. He completed his postgraduate training at Baptist Medical Centers in Birmingham, serving as Chief Medical Resident in his fourth year. In addition to serving on the attending teaching faculty of the



Juan Johnson, MD

Baptist Health Systems Internal Medicine Department, Dr. Johnson has served as Medical Director of the Internal Medicine Clinical Unit at BMC-Princeton since 1995 and is also active on several boards and committees.



David P. Herrick, MD

David P. Herrick, MD, has been a Board member since 2004. He is a board certified anesthesiologist specializing in pain management in Montgomery, Alabama, where he has practiced since 1995. From 1992 to 1995, he served as a U.S. Air Force Anesthesiologist, attaining the rank of Major. Dr. Herrick received his bachelor's of science degree in chemistry from Auburn University and his medical degree from the University of Alabama at Birmingham. He completed his postgraduate training at Baptist Medical Centers, Birmingham, and the University of Tennessee.



News you can use from the Federation of State Medical Boards

CME on pharmaceutical industry marketing techniques

Eleven new educational courses have been added to the FSMB Foundation hosted web portal www.fsmb.org/re/open/aboutus.html that provides practitioners with access to accredited CME courses about pharmaceutical industry marketing techniques. Most of the more than 40 courses now available are free of charge, and many may be taken for CME credit.

Prescription medication safety

A new educational resource center was recently added to the FSMB portal www.fsmb.org/re/open/aboutus.html. Resources include relevant statutes, reporting mechanisms for adverse events related to medications, and databases of information about the safety and efficacy of prescription medica-

tions. The portal is part of a national program designed to educate health care professionals about pharmaceutical industry marketing techniques and their effect on prescribing practices.

National Health Service Corps loan repayment assistance

The U.S. Health Resources and Services Administration is accepting new applications to support loan repayment for educational debt for primary care medical clinicians who want to work at National Health Service Corps sites. In exchange for loan repayment assistance, clinicians serve for two years with the Corps. New funding is expected to support about 3,300 clinicians to serve in health centers, rural health clinics and other sites providing care for uninsured and underserved people. For more information, please visit <http://nhsc.hrsa.gov>.

Meet the Staff

Office Manager and Examinations Director **Anne Shiver** is the Board's longest-term employee. She started her employment in 1979; this year marks her 30th anniversary! Ms. Shiver has played a major role in the development and growth of the agency into the dedicated and effective office it is today. Among her numerous and varied duties, Ms. Shiver is responsible for the day to day operations of the Board's office and staff, and she also coordinates with the various testing agencies and applicants undergoing examination for licensure.

Only one rule in medical ethics need concern you – that action on your part which best conserves the interests of your patient.

– Martin H. Fischer

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

MLC – June 2009

◆ Upon Stipulations of the parties, on June 24, the Commission entered Consent Orders reprimanding the following licenses to practice medicine in Alabama, assessing administrative fines, and requiring additional continuing medical education, based on failure to comply with continuing medical education requirements:

- **Todd D. Engerson, MD**, license number MD.21723, Mobile, AL
- **John E. Flemming, MD**, license number MD.8831, Birmingham, AL
- **Thomas G. McKelvey, MD**, license number MD.18426, Mobile, AL
- **David H. Mull, MD**, license number MD.19445, Daphne, AL
- **William L. Pridgen, MD**, license number MD.22573, Tuscaloosa, AL
- **Samyuktha C. Reddy, MD**, license number MD.10773, Huntsville, AL

MLC – JULY 2009

◆ On July 3, the Commission entered an Order issuing a license to practice medicine in Alabama to **Negash Tesemma, DO**, license number DO.1090, Atmore, AL, subject to the condition that his practice shall be limited to employment with the Department of Corrections.

◆ On July 3, the Commission entered an Order suspending the license to practice medicine in Alabama of

Mario V. Davila, MD, license number MD.17830, Decatur, AL.

◆ On July 3, the Commission entered an Order lifting the suspension of the license to practice medicine in Alabama of **Michael A. Schwartz, MD**, license number MD.11378, Kenner, LA, subject to the condition that he shall practice only within the confines of a residency or other training program approved by the Commission.

◆ Effective July 8, the Commission suspended the license to practice medicine in Alabama of **David J. Pavlakovic, MD**, license number MD.22143, Birmingham, AL, until Sept. 1, 2009, and the license shall be placed on indefinite probation, subject to certain conditions.

◆ On July 31, the Commission entered an Order reinstating the license to practice medicine in Alabama of **William S. Fleet, MD**, license number MD.12869, Mobile, AL, with certain conditions.

◆ On July 31, the Commission entered an Order reinstating the license to practice medicine in Alabama of **Alan V. Stansfield, MD**, license number MD.7469, Gadsden, AL, subject to certain conditions.

MLC – AUGUST 2009

◆ Upon the stipulation of the parties, on August 26, the Commission entered a Consent Order reprimanding the license to practice medicine in Alabama of **Julia M. Dannelley, MD**, license number MD.17415, Mobile, AL, assessing an administrative fine, and requiring additional CME for 2009, based on failure to comply with CME requirements.

◆ On August 31, the Commission entered an Order reprimanding the license to practice medicine in Alabama of **Stephen D. Browne, MD**, license number MD.12788, Northport, AL, assessing an administrative fine, and requiring additional CME for 2009, based on failure to comply with CME requirements.

MLC – SEPTEMBER 2009

◆ Effective Sept. 24, the Commission summarily suspended the license to practice medicine in Alabama of **Timothy M. Iliff, MD**, license number MD.10759, Mobile, AL, until such time as the Administrative Complaint of the Board shall be heard by the Commission and a decision rendered thereon.

Your Medical License

As a physician, your license to practice medicine in the State of Alabama is one of your most important assets. It allows you to apply what you learned during years of school and post-graduate training to earn a livelihood to support your family. Exercise care to protect this asset.

*He is the best
physician who is
the most ingenious
inspirer of hope.*

– Samuel Taylor Coleridge



PRESCRIBING CONTROLLED DRUGS: CRITICAL ISSUES AND COMMON PITFALLS

The final opportunity to attend *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls* in 2009 will be Nov. 20, in Birmingham. Participants must register by Nov. 9.

The seminar, by the Alabama Board of Medical Examiners and the Medical Association of the State of Alabama, will cover the dos and don'ts of prescribing as well as practical applications that you can use daily.

Registration Fee: The \$225 fee includes all course materials and meals (if applicable). Please see below for registration deadlines. **Note: All registration fees must be paid at time of registration. Attendees will not be allowed to pay or register at the door.**

Cancellation/Refund Policy: If you cancel two weeks before seminar, you will be refunded half of your registration fee and course materials. If you cancel less than two weeks before seminar, you will receive **NO refund** and **NO course materials**.

Name: _____

Company: _____

Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____ Other: _____

E-mail: _____

_____ One-Day Symposium
November 20, 2009 (8 a.m. - 5:45 p.m.)

Ross Bridge - Birmingham, Alabama
Registration Deadline: November 9, 2009

We accept Checks, MasterCard, Visa and American Express

Type of Card: Visa MasterCard American Express

Card Number: _____

Exp. Date: _____ 3- or 4-digit Security Code: _____ Amount: _____

Cardholder: _____

Billing Address: _____

Signature: _____

Your signature constitutes an agreement to pay.

Please return completed registration form and payment to:

Medical Association of the State of Alabama • Attn: Stephanie Fletcher
P.O. Box 1900 • Montgomery, AL 36102-1900 • Phone: 334-954-2500 • Fax: 334-269-5200



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 masa@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.