



Newsletter and Report

www.albme.org

April – July 2010

Volume 25, Number 2

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Medical communication – it's not just what you say

It's not just what you say to patients and their families or how you say it. It's not just what they hear and understand at the moment or what they remember when you finish. It's how they feel after the communication is over, what they remember tomorrow, and what they tell others. People may forget what you said or what you did, but they will never forget how you made them feel. One benefit of a long career is learning from patients what they really understood from your communications many years previously. The discrepancy between what the clinician remembers and what the patient remembers is sometimes immense.

Often, a discussion with a physician is the most life changing conversation a person will ever have, and the emotional stress of this time influences an individual's ability to comprehend and remember important facts. Additionally, the impacts and repercussions of decisions based

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on these conversations are at times truly vital. Because effective communications improve patient and family satisfaction and also medical decisions, the clinician must make the effort to ensure that recipients understand the information being imparted.

Miscommunication and misunderstandings can lead to fear, hostility and lack of trust on the part of patients and their families. Surveys of people who have lost family members cite ineffective communication as the

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Boyde J. Harrison, MD

**Dr. Harrison is a rural family physician practicing in Haleyville, Alabama. He has been a Board member since 2006.*

Don't forget! CME requirement change for 2010

The continuing medical education requirement for physicians and physician assistants changed this year to 25 *AMA PRA Category 1 Credits*[™] (or equivalent) annually. The rollover provision has been discontinued.

It is advisable to check your compliance now instead of waiting until the end of the year when CME opportunities may be fewer.

For more information about CME, including what is considered "equivalent" to *AMA PRA Category 1 Credits*[™], please see the Board's web page concerning CME:

<http://www.albme.org/index.cfm?fuseaction=app.displayPage&pageID=37>.

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A Message from the Executive Director Maintenance of Licensure

by Larry Dixon

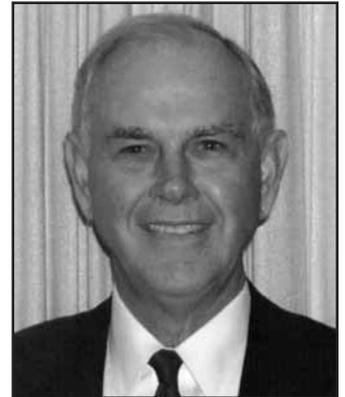
After more than seven years of study the Federation of State Medical Boards (FSMB) presented its report on "Assuring the Ongoing Competence of Licensed Physicians" to the Federation's House of Delegates on April 24, 2010, in Chicago, Ill. The Federation has been involved since May 2003, trying to develop a Maintenance of Licensure system for the state medical licensure boards to use in an effort to "ensure the ongoing competence of physicians seeking relicensure."

The idea behind the Maintenance of Licensure (MOL) effort has been to continue protecting the public by some method of determining, during the annual relicensure process, that a physician has maintained his/her clinical abilities and is staying abreast of the latest developments in the field of medicine or surgery.

I am certain those of you reading this article recognize immediately some people might interpret this topic to be the potential for some kind of test/retest in order to be able to continue practicing your profession. It was recognition of that possibility that led the FSMB to report in Chicago that MOL could represent a change in how state medical boards evaluate the qualifications of physicians applying for license renewal or re-registration. There has been much concern by all of the different state boards' physicians how best to structure a MOL system, how to implement such a system and how the implementation of such a system would not only impact state boards but licensees. Following much input from agencies like the Alabama Board of Medical Examiners (ALBME) and the boards of medicine in other states the Federation Board of Directors recommended that before taking action on the report it would be necessary to engage in further evaluation and study of the proposed MOL framework and the implications of its implementation.

Recognizing the potential for creating more problems than were intended, the FSMB's Chairman, Martin Crane, MD, appointed a Maintenance of Licensure Implementation workgroup and charged them with creating a template proposal that would be made available to assist state medical boards in the implementation of any state run MOL program and to identify potential challenges that such an MOL implementation would create for the boards and licensees. The final

see Maintenance of Licensure, page 4



Larry Dixon

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.

Medical communication

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primary criticism concerning patient care and family satisfaction, not the quality of care or the outcome. Patient complaints to physicians, insurance companies, the Board and other agencies frequently stem from poor communication. Many of these complaints can be avoided if good, effective communication with the patient and family is fostered.

A common problem is communication that the patient sees as inconsistent compared to what was said at a prior visit, by a different practitioner, or what is in the medical record. This is particularly true when information is presented by multiple team providers. Coordination of clinical care is complicated by the multiplicity of players involved and the diffuse lines of authority among them. To the patient, it often appears that no one is in charge. Patients may be left to sort out complicated and sometimes conflicting information on their own. Doctors bear the ultimate responsibility for clinical care and must play the central coordinating role.

When decisions are complex and multiple specialties are involved, the difficulty in providing a consistent message is exponentially higher. Observational studies have concluded that communication from a physician with a prior medical relationship results in more satisfaction with the interaction. Early and frequent interaction between providers, patient and family is necessary to provide longitudinal information about the progress of the disease process and facilitates an understanding of the effects on the patient and the family.

In health care, no less than in other aspects of life, we live in an era when technology can give us almost immediate access to overwhelming amounts of information. But successful communication entails more than mere access to information. In addition to the transmission of information, it incorporates thought and feeling, so that it is better received and understood. This is part of the empathetic care that characterizes our profession. Care not only about what you say; exert care in what the patient and family hears, understands and feels.



Successful communication entails more than mere access to information... it incorporates thought and feeling, so that it is better received and understood.

Collaborative practices must be renewed or formally terminated by Dec. 31

All collaborative practice agreements that have not been terminated expire annually on December 31. If our records indicate you are in a collaborative practice as a supervising physician, it will be listed on the license renewal postcard. The \$100 fee can be paid online along with your license and ACSC renewals. If you think you are not in a collaborative practice and your postcard notice indicates that you are, you should immediately contact Ms. Walton Skelley at (334) 242-4116.

Collaborative practices are not terminated until the Board has received a termination notice from the physician. Simply ending an employment relationship does not terminate the collaborative practice. There is a form to effect the termination of a collaborative practice available at our web site:

http://www.albme.org/Documents/Termination_Form.pdf.

If a collaborative practice is neither renewed nor terminated by December 31, then the physician will receive a letter to either send a termination notification or cease and desist collaboration with the advanced practice nurse(s) until the fee is paid. **If these notices are simply ignored and neither action is done, then the physician will receive a letter of concern from the Board.**

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What are a physician's obligations when closing or leaving a medical practice?

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How long should medical records be retained?

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Find helpful information at www.albme.org

FDA warns about lipodissolve product claims

The Food and Drug Administration (FDA) is alerting consumers about false and misleading claims being made about products used in lipodissolve injections, also known as injection lipolysis, lipozap, lipotherapy and mesotherapy. The FDA states that these products are not approved by FDA for fat removal. In April 2010, FDA announced it had sent warning letters to six medical spas in the United States for making false or misleading statements on their web sites about drugs used in the procedure or for otherwise misbranding lipodissolve products. The spas made various unsupported claims about lipodissolve, such as assertions that the products are safe and effective, have an outstanding safety record, and are superior to other fat-loss procedures, including liposuction. Some of the letters indicate companies have made claims that lipodissolve can be used to treat certain medical conditions such as male breast enlargement, lipomas, excess fat deposits and surgical deformities. The companies were told that failure to promptly correct the violations may result in legal action. In addition, FDA has issued an import alert against two web sites marketing lipodissolve products, zipmed.net and mesoone.com, to prevent the importation and distribution of unapproved lipodissolve drug products into the United States. Importing and distributing unapproved drug products is a violation of the Federal Food, Drug and Cosmetic Act. Health care professionals may report serious side effects with the use of lipodissolve products to FDA's MedWatch Adverse Event Reporting Program online.

On the Net:

"FDA Warns about Lipodissolve Product Claims,"

www.fda.gov/downloads/ForConsumers/ConsumerUpdates/UCM207620.pdf

Report side effects: www.accessdata.fda.gov/scripts/medwatch/medwatch-online.htm

Maintenance of Licensure

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recommendation to the House of Delegates on the MOL report was that the "FSMB continue pursuing the following scope of work and report back to the House of Delegates at the FY 2011 Annual Business Meeting:

- Continue the Work of the Maintenance of Licensure Implementation Workgroup to develop a template proposal for state medical boards' use in implementing Maintenance of Licensure and to identify potential challenges to implementation of MOL programs and propose possible solutions to overcome these challenges.
- Conduct, collect and disseminate research on the evidence for the need for initiating a MOL program and the effects of such a program on patient care and physician practice; and
- In collaboration with appropriate stakeholders, support/fund one or more pilot projects centering on issues relevant to MOL discussions."

The ALBME is following this process/idea carefully and will have input into any final FSMB proposal or "Model" guide. The ALBME knows the issuance of such a "Model" would be seized upon as a national standard. The ALBME will be working to ensure any proposal takes into consideration the practicing physician's time and resources. It is for certain, the resources and autonomy of each state are also at the top of the ALBME's list of concerns as well.

Meet the Staff

Karen Silas is the Executive Assistant for the Medical Licensure Commission. She came to the Commission in July 2006 with extensive administrative experience, which has served her well in successfully performing the many duties that her position requires. Ms. Silas' multiple responsibilities include preparing the agendas for the monthly Commission meetings, which cover new license applicants, administrative hearings, requests to the Commission and other matters; scheduling all hearings and pre-hearing conferences; handling correspondence for the Commission; serving as liaison with counsel for the Commission, Board and physicians; and the issuance of all new licenses. Ms. Silas is invaluable in ensuring the smooth operations of the Medical Licensure Commission.

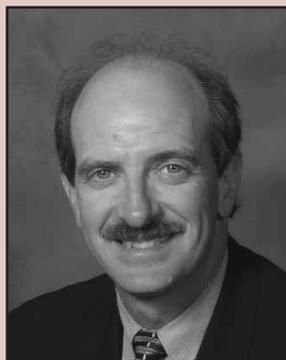
Meredith Marshall was employed by the Board in October 2006 as an Administrative Assistant. She handles a myriad of tasks for the Board and Commission, including issuing initial licenses and license renewals, processing license reinstatement applications, and records management. In addition, Ms. Marshall serves as the Board's Continuing Medical Education Review Coordinator, who is responsible for the annual random CME audit of physicians and physician assistants. She also assists the Physician Monitoring Coordinator. Ms. Marshall has quickly become a vital asset to the administration of the Board and Commission.

Meet the Board

The Board welcomes two new members.

Howard J. (Joey) Falgout, MD, was newly elected to the Board in 2010 and began serving his term in May. He is a board certified General Surgeon in Tuscaloosa, Alabama, where he has practiced since 1987. Dr. Falgout graduated with honors from the University of Alabama

where he was a member of Phi Beta Kappa, receiving his bachelor's degree in chemistry. He obtained his medical degree at the University of South Alabama in 1982 where he was a member of Alpha Omega Alpha and completed his surgical residency at The University of South Alabama Medical Center. He has served as President of the Tuscaloosa County Medical Society and President of the Medical Staff of DCH Regional Medical Center. Dr.



H. Joseph Falgout, MD

Falgout is a member of the American College of Surgeons, the Society of Laparoscopic Surgeons and serves as an Associate Professor of Surgery with the College of Community Health Services at the University of Alabama. Dr. Falgout and his wife Sherry attend the First Baptist Church of Tuscaloosa where he serves as a Deacon and has taught Sunday School for 20 years.



W. Jeff Terry, MD

William Jeff Terry, MD, was also newly elected to the Board and began his term in May 2010. Dr. Terry practices pediatric urology in Mobile, Alabama, and has practiced there since 1985. After receiving a bachelor's degree in science from the University of Alabama and his medical degree from the University of Alabama at Birmingham

School of Medicine, he completed an internship and residency in general surgery at the University of Kentucky, urology residency at the University of Alabama at Birmingham, and pediatric urology fellowship at Texas Children's Hospital in Houston. Dr. Terry also serves as chair of Alabama's delegation to the AMA. Dr. Terry and his wife Elizabeth have three sons and a grand-daughter of whom they are very proud.

FDA clarifies procedure for pain pump refill prescriptions

The U.S. Department of Justice, Drug Enforcement Administration (DEA), wishes to inform physicians that the practice of ordering and receiving a Schedule II controlled substance for a patient's pain pump via patient specific prescriptions that are filled and sent by a pharmacy to the physician's office is in violation of federal law and places the physician at risk of prosecution.

Please be advised that Title 21 Code of Federal Regulations (CFR) 1306.04(b) states: *A prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients.*

The proper method of conducting a delivery to a physician for Schedule II controlled substances for pain pumps would not be with a prescription, but rather with a DEA-222 Order Form prepared by the physician and forwarded to a distributor that is registered with DEA to handle Schedule II controlled substances. Regulations regarding DEA Order Forms can be found in 21 CFR 1305.

The Medical Association of the State of Alabama and The Alabama Board of Medical Examiners present:

**Prescribing and Pharmacology of Controlled Drugs:
Critical Issues and Common Pitfalls**

The 2010 Series

NOVEMBER 20 - 21, 2010

Renaissance Hotel & Spa at the Convention Center, Montgomery
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Group Code: MED

Room Block Cutoff: October 20

Registration forms and agenda are posted in the Education section of MASA's Web site, www.masalink.org.

For more information, contact the MASA Education Department at (334) 954-2500.

Treating and prescribing to family members: a follow-up

Following publication of an article in the Board's Newsletter & Report, Vol. 25, No. 1, concerning treating and prescribing to family members, the Board was asked to reproduce in full the AMA Ethical opinion on this matter. The Medical Licensure Commission rule concerning treatment of family members and the AMA Ethical Opinion are reproduced below.

Medical Licensure Commission Administrative Rule 545-X-4-.06: Unprofessional conduct shall mean the commission or omission of any act that is detrimental or harmful to the patient of the physician or detrimental or harmful to the health, safety, and welfare of the public, and which violates the high standards of honesty, diligence, prudence and ethical integrity demanded from physicians and osteopaths licensed to practice in the State of Alabama. Furthermore, without limiting the definition of unprofessional conduct in any manner, the Commission sets out the below as examples of unprofessional conduct:

...
(12) Prescribing or dispensing a controlled substance to oneself or to one's spouse, child, or parent, unless such prescribing or dispensing is necessitated by emergency or other exceptional circumstances.

Opinion 8.19 - Self-Treatment or Treatment of Immediate Family Members

Physicians generally should not treat themselves or members of their immediate families. Professional objectivity may be compromised when an immediate family member or the physician is the patient; the physician's personal feelings may unduly influence his or her professional medical judgment, thereby interfering with the care being delivered. Physicians may fail to probe sensitive areas when taking the medical history or may fail to perform intimate parts of the physical examination. Similarly, patients may feel uncomfortable disclosing sensitive information or undergoing an intimate examination when the physician is an immediate family member. This discomfort is particularly the case when the patient is a minor child, and sensitive or intimate care should especially be avoided for such patients. When treating themselves or immediate family members, physicians may be inclined to treat problems that are beyond their expertise or training. If tensions develop in a physician's professional relationship with a family member, perhaps as a result of a negative medical outcome, such difficulties may be carried over into the family member's personal relationship with the physician.

Concerns regarding patient autonomy and informed consent are also relevant when physicians attempt to treat members of their immediate family. Family members may be

reluctant to state their preference for another physician or decline a recommendation for fear of offending the physician. In particular, minor children will generally not feel free to refuse care from their parents. Likewise, physicians may feel obligated to provide care to immediate family members even if they feel uncomfortable providing care.

It would not always be inappropriate to undertake self-treatment or treatment of immediate family members. In emergency settings or isolated settings where there is no other qualified physician available, physicians should not hesitate to treat themselves or family members until another physician becomes available. In addition, while physicians should not serve as a primary or regular care provider for immediate family members, there are situations in which routine care is acceptable for short-term, minor problems. Except in emergencies, it is not appropriate for physicians to write prescriptions for controlled substances for themselves or immediate family members. (I, II, IV)

On the Net:

AMA web site: <http://www.ama-assn.org>

MLC Administrative Rules: <http://www.alabamaadministrativecode.state.al.us/docs/mlc/index.html>

The education of the doctor which goes on after he has his degree is, after all, the most important part of his education.

- John Shaw Billings

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

BME – April 2010

◆ On April 15, the Board entered an Order terminating the Voluntary Stipulation and Consent Order attached to the Alabama Controlled Substances Certificate (ACSC) of **Larry Taylor Bolton, MD**, ACSC.5951, Scottsboro, AL. Dr. Bolton's ACSC is now full and unrestricted.

MLC – May 2010

◆ On May 5, the Commission entered an Order approving the practice plan and re-entry into the practice of medicine in Alabama of **Samuel W. Beenken, MD**, license number MD.15438, Montevallo, AL.

◆ On May 5, the Commission entered an Order denying the request for termination of the probationary status of the license to practice medicine in Alabama of **Vinit V. Patel, MD**, license number MD.21022, Hoover, AL.

◆ On May 5, the Commission entered an Order removing the restrictions attached to the license to practice medicine or osteopathy in Alabama of **Russell Dean Ulrich, DO**, license number DO.47, Piedmont, AL. Dr. Ulrich now holds a full, unrestricted license.

◆ On May 26, upon the Stipulation of the parties, the Commission entered an Order placing on probation the license to practice medicine in Alabama of **Steven Corvillia, MD**, license number MD.23739, Dundalk, MD, and requiring other conditions to be met.

BME – May 2010

◆ On May 19, upon the Stipulation of the parties, the Board issued a Consent Order reprimanding the license to practice as a physician assistant in Alabama of **Linda Haws Brantley, PA**, license number PA.102, Birmingham, AL, issuing an administrative fine, and requiring additional continuing medical education for failure to comply with continuing medical education requirements.

MLC – June 2010

◆ On June 14, the Commission entered an Order placing on indefinite probation with conditions the license to practice medicine in Alabama of **Daniel C. Clower III, MD**, license number MD.6624, Selma, AL, and assessing an administrative fine.

BME – June 2010

◆ On June 23, the Board accepted the Voluntary Restriction on the certificate of qualification and license to practice medicine in Alabama of **Shawn B. Harmon, MD**, license number MD.26378, Birmingham, AL. Dr. Harmon's practice is limited to administrative medicine and/or research only.

MLC – July 2010

◆ By Order dated June 13, 2010, the Commission indefinitely suspended the license to practice medicine in Alabama of **Clark D. Baker, III, MD**, license number MD.21072, Birmingham, AL.

◆ On July 13, the Commission entered an Order suspending the license to practice medicine in Alabama of **Lasan Edward Davis, MD**, license number MD.13059,

Tuskegee, AL, until such time as he has complied with the Board of Medical Examiners' January 26, 2010, Order.

◆ On July 13, the Commission entered an Order suspending the license to practice medicine in Alabama of **Julia M. Dannelley, MD**, license number MD.17415, Daphne, AL.

◆ On July 13, the Commission entered an Order denying the request for license reinstatement of **Glen P. Wilcoxson, MD**, license number MD.5915, Daphne, AL.

◆ On July 13, the Commission entered an Order terminating the probationary status of the license to practice medicine in Alabama of **Judonn T. Adams, MD**, license number MD.14027, Fayetteville, GA.

BME – July 2010

◆ On July 21, the Board accepted the Voluntary Surrender of the certificate of qualification and license to practice medicine of **Michael George Hoffman, MD**, license number MD.3543, Phenix City, AL. Dr. Hoffman is no longer authorized to practice medicine in Alabama.

Find Board opinions
on referrals, use of
physician extenders,
and more at
www.albme.org

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from the Board of Medical
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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.