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## **PRESCRIBING POSES A PLETHORA OF PROBLEMS, PITFALLS AND PERILS**

**By Philip Parshley, M.D.  
Medical Director,  
Board of Medical Examiners**

**P**rescribing medication is an essential task within a physician's practice. But the fast pace of scientific progress, societal problems of drug addiction and abuse, and a multi-level myriad of rules and regulations make it a problematic task as well.

### ***Multiple prescriptions and the Law***

Recently, there has been some confusion regarding prescriptions of Schedule II controlled substances, particularly with regard to federal regulations. The federal Controlled Substances Act (CSA) specifically prohibits refilling prescriptions for Schedule II drugs, but until recently it has been accepted that multiple Schedule II prescriptions may be written and dated on the same day with the additional written comment, "Do Not Fill Until xx/xx/xx (date)". By advancing the date by one month in sequence on these several prescriptions a healthcare provider, licensed to prescribe Schedule II medications, may provide a one month supply for several months in a row.

This technique was used for reliable individuals who were on stable doses and who were perhaps restricted by insurance rules that allowed only one month supply of medications at a time. The U.S. Drug Enforcement Administration (DEA) in an August 2004 "Frequently Asked Questions" document stated that this was acceptable.

However, in November 2004 the DEA published in the *Federal Register* a retraction of the previous acknowledgment of that process, and opened the way for public comment. This made the care of chronic pain patients more difficult and more expensive for both the public and healthcare providers. Because of many protests, public commentary was sought, but, after the DEA received many opinions against its November 2004 ruling, it reconfirmed its November action. This was based on the overall rule that refills of Schedule II drugs are forbidden, and that permitting this alternative is "tantamount to writing a prescription authorizing refills of a Schedule II controlled substance."

Federal authorities explained that such an action would conflict with a fundamental purpose of the federal statute – preventing diversion of controlled substances for unlawful purposes. Authorities have long felt that physicians who unlawfully dispense controlled substances often do so by writing multiple prescriptions for future use. This issue may not be over yet. Stay tuned for now but don't use this technique.

It is well to note that in situations where federal laws or regulations conflict with state laws or regulations, the more stringent rule or rules are to be followed – particularly in regard to using, prescribing and administering controlled substances.

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## From the Executive Director



# LEGISLATIVE ACTIVITY IN 2005 AFFECTS BME ACTIVITY IN '06

By Kathleen Haley, J.D.  
Executive Director

The 2005 Oregon Legislature brought a number of what will be quite noticeable changes to the Board of Medical Examiners (BME) and the way it works to fulfill its obligations to the people of Oregon.

Negotiation and compromise were the orders of the day throughout the long, contentious legislative session, and consequently, the changes faced by the BME will not be as sweeping as they could have been. But on New Years Day, 2006 – the day most bills affecting the BME become effective – the Board will have one more seat, one fewer advisory panel, and the authority to check all applicants for prior criminal records.

### **Added screening of license applicants to begin in 2006**

Thanks to an “omnibus” bill affecting a number of agencies, the BME is now allowed to conduct national criminal background checks on applicants for licensure, as well as current licensees. The BME had requested its own criminal record background check bill, HB 2059, before the 2005 legislative session began. And while HB 2059 did pass, thanks to a fine concerted effort by Board members and staff, the Legislature also adopted a broader background-check bill that had been requested by the Oregon State Police (OSP). That bill, HB 2157, was amended with background-check provisions for the BME and other agencies that had requested bills similar to our HB 2059.

The Board and staff have begun planning implementation of the criminal record checking program, which will include fingerprinting of incoming applicants as well as current licensees who are under investigation. To handle the increased workload, the BME has added a half-time employee to the licensing staff, to assist in processing the background checks.

Applicants and licensees who must be fingerprinted will have this done at police agencies near their homes. Local authorities will forward the prints to the state police, who will perform statewide and regional criminal

records checks before sending the prints to the FBI for national criminal background checking. Neither the FBI nor the OSP will be allowed to retain fingerprint cards – under the new law, the FBI must return the cards to the OSP, which must destroy them.

Board and OSP staff are working together to devise a procedure by which state police will notify the BME when licensees and applicants are charged with crimes.

As current events have so vividly illustrated, thoroughly screening healthcare professionals prior to licensure is vital to protecting public health and safety. Through HB 2157, Oregon will join a growing number of other states that have adopted criminal background checks for persons seeking licensure as healthcare providers. HB 2157 represents a major, important enhancement to the applicant-screening process.

### **Podiatrist will join the Board; Advisory Council to be abolished**

The Board will grow to 12 members, one of whom will be a podiatric physician, sometime in the spring of 2006. After several attempts during the past couple of decades, Oregon’s podiatrists this year succeeded in getting a bill (HB 2490) adding a podiatrist to the Board as a 12<sup>th</sup> member.

The Board had concerns about a podiatrist member voting on medical questions outside his or her scope of practice, and we voiced those concerns to lawmakers. Consequently, we were able to get the bill amended in the waning hours of the session, to restrict the podiatric Board member’s voting privileges to matters involving podiatrists.

HB 2490 takes effect on January 1, 2006. The Governor has until March 1 to appoint a podiatrist to the Board. His appointment may be based on recommendations from the Oregon Podiatric Medical Association (OPMA). If the appointment and Senate confirmation processes move in a timely manner, the Board’s new podiatrist member should be seated at the April Board meeting, along with a new public member to succeed retiring public member Suresht R. Bald, Ph.D. of Salem.

HB 2490 also abolishes the Board’s Advisory Council on Podiatry, which was created in 1981 when the old Board of Podiatry was abolished and its responsibilities

*(continued on next page)*

transferred to the BME. When the Council meets for the last time on December 2, a 24-year tradition of service to the people of Oregon will come to an end, and Council members past and present will receive the salutes they so richly deserve for their commitments to serve that citizenry.

### **Hearings process will change in '06**

Throughout the 2005 legislative session, we closely monitored the progress of a three-bill package with a potentially serious impact upon the BME and the way it investigates and disciplines licensees. Of the three bills, requested by the Administrative Law Section of the Oregon State Bar, only one passed.

HB 2285, which also takes effect January 1, 2006, will require the BME to provide certain investigative materials to opposing parties in contested case hearings. This bill also passed the Legislature in its final hours, after a session-long round of hearings, work sessions and other meetings in which all concerned parties sought common ground.

As part of a final compromise, HB 2285 was amended to exclude information identifying complainants from investigative files that must be made available to licensees, once the Board moves to discipline. Another amendment, which we requested in concert with the Governor's office, allows agencies to recover all costs of complying with HB 2285. Such costs include fees paid to the Attorney General's office for file review prior to release.

We will closely monitor the effects of HB 2285 on our ability to fulfill the Board's mission of public protection. We will also seek to meet with Oregon State Bar representatives during the interim, to discuss the effects of HB 2285 and any possible future expansion of the bill. If this new law hinders that mission in any way, the Board will request appropriate changes to the law in future legislative sessions.

### **Other bills of interest**

The Legislature passed several other bills affecting the BME this year:

- We worked with Sens. Alan Bates, DO (D-Ashland) and Ben Westlund (R-Tumalo) on a bill requiring that retired (Emeritus) volunteer doctors from out of state be required to pass licensing examinations only if they have been out of practice for two years or more. This will enable the citizens of Oregon to access the pool of talent available from retired physicians.
- We were able to convince lawmakers that the Workers Compensation Division, not the BME, should be

required under SB 311 to create standards for physicians conducting Independent Medical Examinations (IME) for workers' compensation claims. In its original form, SB 311 also would have required the BME to keep a listing of licensees qualified to conduct IMEs.

### **Bills that failed**

During the session, we were able to "kill" dozens of bills that had potentially negative impacts upon the BME. Among these were two other bills in the Oregon State Bar package: HB 2283, requiring contested case hearings prior to issuing Orders for Evaluation; and HB 2284, removing state agencies' authority to assess hearing costs from licensees.

A bill requiring the BME to discipline physicians who perform sterilization procedures without informed consent of patients died in committee. Board representatives testified against this bill, telling lawmakers that informed consent is already in place for surgical procedures and that putting this requirement into statute would not be good public policy.

Nearly 40 bills related to medical malpractice reform died in committee, as well.

Other unsuccessful proposals included SB 340, which would have allowed legislative review of confidential records if lawmakers deemed such review necessary to evaluate effects of laws or agency performance. There were also several bills which would have required the BME to establish a physician liability fund and pre-litigation review panel.

These are but a few of many health care-related bills that died in committee during the 2005 legislative session. The sheer number of such proposals illustrates a growing trend toward trying to get the Legislature more involved in health care, which would mean placing additional mandates upon the BME.

### **The future**

In the 2007 legislative session and beyond, scope of practice issues will probably appear on legislative agendas. Specifically, the Legislature may address the question of whether healthcare professionals not currently regulated by the BME should be required to apply for BME licensure in order to perform certain surgical procedures.

I've quoted Capitol old-timers in this space before, and another pearl of wisdom comes to mind here. It's been said that the legislative process is somewhat like raking leaves – even though the job is done and the yard looks neat and sharp, another batch will fall and the task must be repeated

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## **From the Executive Director** *(continued from page 3)*

next year. We will be ready to revisit many of these issues in Salem in 2007.

### **Overall: Measured success at the Capitol**

The 2005 legislative session, though contentious in other areas, was a successful one for the BME. We are glad that we were able to work with other interested parties toward amendments to such as the podiatry and discovery bills, in order to minimize less-than-desirable effects upon the BME. Politics and statecraft are arts of the possible, but only if the repertoire includes compromise.

The Board and staff must be acknowledged and praised for their outstanding work during the session. Board members past and present contacted key legislators, including those from their home districts, throughout the session to present BME views on various bills. We learned that many members of the Legislature reported receiving contacts from Board members, and that the lawmakers had said that these contacts were extremely helpful to them in deciding how to vote on the bills in question.

Board members' assistance in explaining the BME mission to legislators, particularly new ones, was especially important during the budget process early in the session. And Senator Bates, an osteopathic physician, was quite helpful in bringing his particular knowledge and point of view to the legislative process.

A number of other individual legislators were particularly helpful this year: Sens. Margaret Carter (D-Portland), Kurt Schrader (D-Canby), Frank Shields (D-Portland) and Jackie Winters (R-Salem), and Reps. Wayne Krieger (R-Gold Beach) and Gene Whisnant (R-Sunriver).

We will continue the practice of Board members and staff meeting with key legislators in their home communities, during the 2005-06 interim period. These meetings, in relaxed settings without the press of legislative activity, have been valuable tools for educating legislators about the BME, its role and process.

As 2005 draws to a close, I would like on behalf of the Board and staff to wish you all happy holiday seasons with your dear ones, and a happy and prosperous New Year. ■



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## **GRAND LICENSE RENEWAL UNDERWAY**

The biennial license-renewal process has begun for Oregon's physicians (MD, DO), podiatrists and physician assistants.

Renewal forms were sent to those licensees earlier in the fall. Licensees who have not received renewal forms, or who are unsure as to whether the BME has their correct addresses on file are asked to contact the BME at (503) 229-5770, or toll-free in Oregon at 1-877-254-6263.

Podiatrists now have the same renewal schedule as MDs and DOs. The change in the podiatrist renewal period shortened the initial renewal period by six months, with a December 31, 2005 expiration date.

Podiatrists are required to complete just 37.5 hours of continuing medical education (CME) in the shortened renewal period, rather than the usual 50 hours. The 50-hour CME requirement will again be effective during the 2006-07 license cycle.

The reduced two-year renewal fee of \$420 will be in effect in the upcoming renewal period. The reduced *Emeritus* license fee is \$50 per year.

### **Lapsed Licenses Set to Expire**

All lapsed licenses that have been lapsed four years or more will expire at 5 p.m. Pacific time on Wednesday, January 18, 2006. Persons whose lapsed licenses expire at that time will be required to apply for licensure as new applicants, and pay all required fees, if they wish to resume their Oregon practices.

It is illegal to practice medicine, podiatry and acupuncture, and to serve as a physician assistant, with a lapsed license. Practicing with a lapsed license also means practicing without malpractice insurance, as policies do not cover claims filed during periods in which licenses have lapsed. ■

# DRUGS AND DEVICES: IMPORTANT CONSIDERATIONS

## *Importing, Re-Importing, and Compounding May Carry Serious Consequences*

**By Mark L. Jewell, M.D.**  
**President, American Society for Aesthetic Plastic Surgery**

Many Oregon physicians have received marketing materials from foreign pharmacies, advertising drugs and devices that have been approved – and have not been approved – by the U.S. Food and Drug Administration (FDA).

In a similar fashion, compounding pharmacies have produced and marketed illicit copies of brand-name drugs and devices, such as hyaluronic acid fillers. The purchase and use of these materials has important legal, ethical, and regulatory considerations, in addition to patient safety risks.

While it may be possible to obtain drugs and devices from foreign sources, or to have patients bring these products to the U.S. from outside of the country, Oregon physicians should be aware that federal law prohibits these practices.

For example, an individual who enters the country with a non-approved injectable filler in his/her luggage could be sanctioned by the FDA. Similarly, a physician who orders approved or non-approved drugs or devices, such as injectable fillers, through a Canadian mail-order pharmacy could also receive FDA sanction(s). Other regulatory agencies, including state medical licensing boards, would become involved if there was a patient complaint regarding the use of a non-approved drug or device.

The act of importing FDA-approved, U.S.-manufactured drugs is called “reimportation.” Despite recent support in Congress and by some state governors, the FDA and the U.S. Department of Health and Human Services (HHS) maintain that such reimportation remains illegal and dangerous. Both the FDA and HHS warn physicians and consumers that drugs purchased from foreign sources may be counterfeit versions of FDA-approved drugs, and may be contaminated, outdated or improperly packaged and labeled.

Compounding of drugs is recognized as appropriate when there is no commercially available drug for a

particular patient. But counterfeit drugs pose many dangers for physicians and patients. The FDA defines as “counterfeit” drugs that are misbranded, diluted, contaminated, adulterated, expired, or “generic copies of brand name drugs.” Physicians who purchase, administer and use counterfeit drugs and devices risk enforcement actions by the FDA.

Generic copies of drugs and devices (tissue fillers) can pose risks to patients, as they may lack the sound manufacturing practices and quality control of the original manufacturers.

There is no way to verify the purity of what is being offered by a compounding pharmacy. Serious health problems attributed to illicitly-produced Botulina toxin, sold as a generic equivalent to Botox, have occurred. Federal authorities recently indicted an Oregon physician who injected patients with this material.

In summary, there are significant and very serious consequences to obtaining drugs and devices such as tissue fillers from foreign sources or compounding pharmacies. It is not worth jeopardizing your ability to practice medicine in Oregon by giving patients anything but the highest level of care with FDA-approved drugs and devices that are purchased domestically through legitimate distribution channels. ■

*Mark L. Jewell, M.D., is a Board-certified plastic surgeon practicing in Eugene. He also serves as a consultant to the BME. Dr. Jewell earned his medical degree from the University of Kansas School of Medicine, and has practiced in Oregon since 1979.*

## Prescribing Poses A Plethora of Problems, Pitfalls and Perils *(continued from page 1)*

### Oregon requires CME for pain prescribing

An Oregon state law which takes effect January 2, 2006 requires that certain licensees of the BME must complete continuing medical education (CME) in pain management. The BME is writing Oregon Administrative Rules (OAR) to require that all licensees complete mandatory CME in the subject of pain management and/or the treatment of terminally ill and dying patients.

The CME includes a one-hour pain management course specific to Oregon, provided by the Pain Management Commission in the Department of Human Services<sup>1</sup>, and six hours of CME in pain management and/or treatment of terminally ill and dying patients. Any combination of these subjects may be used.

Licensees holding the following types of licenses are not required to participate: lapsed licenses; telemedicine licenses; teleradiology licenses.

The 2001 Legislature adopted the new law, and health care professionals subject to these CME requirements have 24 months from the effective date (January 2, 2006) to complete the required coursework. The required CME must be completed after January 1, 2000 and before January 2, 2009. All licensees required to obtain this CME must have available documentation of completion, or face disciplinary action by the BME.

Other organizations offer pain management courses for Oregon providers seeking to comply with the six-hour CME requirement. The University of California, San Diego (UCSD) offers six-hour and 12-hour programs in pain management, designed to comply with California's pain management education law. The UCSD courses are available on DVD for \$150 (six hours) or \$200 (12 hours)<sup>2</sup>.

The American Medical Association (AMA) offers two free, three-hour courses as PDF downloadable files to all health care providers. The courses are in management of persistent non-malignant pain, cancer pain and end-of-life care.<sup>3</sup> The AMA has a 12-hour course available on line as well, the last six hours of which is included in the above downloadable programs.

Physician assistants are reminded that they must complete all required CME – including pain management – in order to qualify for Schedule II prescribing privileges.

### Chronic pain prescribing: Ongoing Issues

Oregon law also requires attending physicians to provide, and patients to sign, Material Risk Notices (MRN) if controlled substances are prescribed and/or administered for chronic intractable pain. As stated in OAR 847-015-0030, the notices should include but not be limited to the following: diagnosis, controlled substance and/or group of controlled substances to be used, anticipated therapeutic results, and alternatives to controlled substance therapy.

In addition, the MRN should inform patients of potential side effects of medication on various systems of the body, possible allergic reactions, impairment and addiction, interactions with other drugs and withdrawal precautions. The MRN also should contain patient-initiated, achievable goals of treatment other than simply control of pain. Progress in achieving these goals provides valuable measurement of the efficacy of the treatment program. Without positive results, the planned treatment should be re-evaluated.

An “approved” example of a Material Risk Notice is available on the Board's Website, [www.oregon.gov/BME](http://www.oregon.gov/BME), under “Forms.”

When tracking prescribing of controlled substances, using more than one tracking method is recommended. Flow sheets, organized copies of prescription pads and some electronic records used in concert will help ensure thorough and accurate records of prescriptions for controlled substances used to treat pain.

All healthcare professionals should recognize “red flags” of controlled substance abuse – seeking and/or diverting drugs for unlawful and non-therapeutic purposes. In addition poor or nonexistent prescription tracking, prescribing or administering drugs to family members or self, inadequate security when drugs are kept at practice locations, are grounds for suspending, revoking or refusing to issue licenses, under ORS 677.190 (7), (24) and (25). ■

**VISIT**  
[www.oregon.gov/BME](http://www.oregon.gov/BME)  
**for a current**  
**Calendar of**  
**Upcoming Meetings**

<sup>1</sup> [www.oregon.gov/DHS/pain](http://www.oregon.gov/DHS/pain)

<sup>2</sup> [www.ab487.com/program/misc/splash.htm](http://www.ab487.com/program/misc/splash.htm)

<sup>3</sup> [www.ama-assn.org/ama/pub/category/13494.html](http://www.ama-assn.org/ama/pub/category/13494.html)

## BOARD ACTIONS – June 24 to October 7, 2005

### **ADAMS, Ralph E., MD05512; Salem, Ore.**

The Board on July 19, 2005 issued an Order of Emergency Suspension. The Board took this action based on its immediate concern for the safety and welfare of the Licensee's current and future patients.

### **ALTER, Dale N., MD20858; Madras, Ore.**

The Licensee on July 14, 2005 entered into a Stipulated Order. Through this Order, the Licensee received a reprimand and agreed to a 10-year probationary period; with quarterly reporting to the Board. Other terms of the Order: The Licensee must comply with his Health Professionals Program (HPP) contract; may not write prescriptions for family members or social acquaintances; may write prescriptions only in a clinical setting; must have a primary care physician and must have annual neuro-ophthalmologic evaluations of his eyes.

### **BERRY, Douglas F., MD12708; Bend, Ore.**

The Licensee on July 14, 2005 entered into a Stipulated Order, through which he agreed to permanently retire his Oregon medical license while under investigation, and to never reapply for an Oregon medical license. In addition, the Licensee was reprimanded.

### **BLATCHFORD, Douglas M., MD07450; Gresham, Ore.**

The Licensee on July 15, 2005 entered into an Interim Stipulated Order (ISO), through which he agreed to terms of practice while the Board completes an investigation regarding alleged sexual misconduct: He must provide chaperones for all female patients older than 12 years, must not date or have sexual relationships with any current or former patients, and must provide copies of the ISO to chaperones and all employers.

### **BURLESON, David O., MD15077; Portland, Ore.**

The Licensee on October 6, 2005 entered into a Stipulated Order, through which he agreed to surrender his Oregon medical license while under investigation. This Order also places conditions on the Licensee, should he decide to reapply for licensure after two years.

### **EDWARDS, Robert N. Jr., MD14941; Klamath Falls, Ore.**

The Board on July 25, 2005 approved an Interim Stipulated Order (ISO) into which the Licensee had entered by his signature on July 15, 2005. Through the ISO, the Licensee agreed to have a Board-approved physician over-read within 72 hours each nuclear medicine scan for which the Licensee provides an interpretation. The ISO will remain in effect until the Board concludes its investigation into the Licensee's interpretation of nuclear medicine scans.

### **ERICKSON, Carl M., DO12690; Portland, Ore.**

The Licensee on July 14, 2005 entered into a Corrective Action Order, through which he agreed to have a Board-approved practice mentor review at least five (5) chronic pain patient charts per month. The Licensee also agreed to make quarterly reports to the Board, and to complete courses in appropriate prescribing and pain management.

### **FAULK, Charles E., MD10505; Salem, Ore.**

The Licensee on July 14, 2005 entered into a Stipulated Order, through which he agreed to the following terms: Probation; practice conditions upon his return to active practice in Oregon; psychiatric care and no self-prescribing.

### **GROBOVSKY, Laura V., MD22573; Medford, Ore.**

The Board on July 14, 2005 issued a Final Order suspending the Licensee's license for a minimum of 30 days pending her completion of a multi-disciplinary evaluation and other terms. Following the suspension period, the Licensee will be placed on probation and will be required to continue compliance with all treatment and monitoring recommendations resulting from the evaluation.

### **IHARA, Dennis M.; MD13753; Winchester, Ore.**

The Licensee on October 6, 2005 entered into a Stipulated Order, through which he agreed to retire

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**Board Actions** *(continued from page 7)*

from the active practice of medicine and practice only under an Emeritus (volunteer) status. The Order limits the Licensee to non-obstetrical, non-surgical gynecological practice on a volunteer basis, with conditions placed upon the Licensee's ability to perform the loop electrosurgical excision procedure (LEEP).

**JOHNSON, Martin C., MD07192;  
Wilsonville, Ore.**

The Licensee on July 14, 2005 entered into a Corrective Action Order, through which he agreed to not prescribe medication for himself or for members of his family.

**LITWER, Lawrence R., MD16741;  
Portland, Ore.**

The Licensee on October 6, 2005 entered into a Stipulated Order, through which he agreed to complete the Physicians Evaluation Education Renewal (PEER) program within 24 months.

**LOPRESTI, Anthony J., DO07192;  
Pacific Grove, Calif.**

The Licensee on July 14, 2005 entered into a Corrective Action Order, through which he was granted licensure under the condition that he participate in the Physician Evaluation, Education and Renewal (PEER) program. The Licensee is also required to obtain Board pre-approval of all Oregon practice settings.

**McCANN, David M., MD17888;  
Orangevale, Calif.**

The Board on October 6, 2005 issued a Default Final Order revoking the Licensee's medical license.

**MITCHELL, Frederick L., MD21015;  
Newberg, Ore.**

The Licensee on July 14, 2005 entered into a Stipulated Order through which he was reprimanded and placed on probation for five (5) years. The Licensee was prohibited from prescribing more than four (4) grams of acetaminophen per day to any patient, was required to enroll in and complete the PEER program and coursework on medical documentation and appropriate prescribing; and required to make quarterly reports to the Board.

**MUMFORD, Dwight C., MD08485;  
Beaverton, Ore.**

The Board on October 6, 2005 issued an Order of Suspension of License, pursuant to ORS 677.225. The statute requires the Board to suspend a license if the Licensee is adjudged to be mentally ill, or is voluntarily admitted to a treatment facility for longer than 25 consecutive days due to mental illness affecting his/her ability to safely practice medicine.

**NIELSEN, Catherine H., MD19382;  
McMinnville, Ore.**

The Licensee on August 4, 2005 entered into a Stipulated Order, through which she was placed on five (5) years probation and required to complete specified education before performing surgical or operative gynecology. The Order further requires that upon completion of said education, the Licensee must have a proctor and an assistant for a minimum of 10 gynecological surgical cases. Other terms: Board review of surgical cases; a practice mentor.

**RAGGE, Bonnie L., MD08485;  
Grants Pass, Ore.**

The Board on October 6, 2005 issued a Final Order denying licensure. The Applicant was also assessed costs associated with her contested case hearing.

**RAY, Nancy T. DPM; DP00310;  
Astoria, Ore.**

The Licensee on July 15, 2005 entered into a Corrective Action Order, through which she agreed to enter into treatment with a mental health professional, who must submit quarterly progress reports regarding the Licensee to the Board.

**RIPPLINGER, Joseph J., LAc, AC00626;  
Gresham, Ore.**

The Licensee on October 7, 2005 entered into a Stipulated Order, through which he was reprimanded, ordered to complete coursework on sexual boundaries and professional ethics, and placed on 10 years probation. The Order prohibits the Licensee from treating female patients 16 years or older, and requires him to have patients' parent(s) or guardian(s) present when treating females younger than 16 years. The Order also requires the Licensee to have a pre-approved practice

## **Board Actions** *(continued from page 8)*

setting and to comply with professional standards, and makes his patient charts subject to no-notice compliance checks.

### **STELSON, Fred W., MD23188; Roseburg, Ore.**

The Board on July 14, 2005 issued a Final Order suspending the Licensee's medical license for a minimum of six (6) months, reprimanding him, and assessing a fine and costs of disciplinary proceedings. Other terms, contingent upon Licensee's return to practice in Oregon: Ten (10) years' probation with quarterly reports to the Board, practice limited to psychiatry, completion of coursework in appropriate prescribing and sexual boundaries; having a practice mentor who shall submit quarterly reports to the Board; no treatment of self, office associates or employees

### **STEPHENS, Ryan S., DPM, DP00306; Ontario, Ore.**

The Board on October 7, 2005 issued a Final Order by Default, reprimanding the Licensee and revoking his podiatric license.

### **STEVENSON, Ronald C., MD22232; Tigard, Ore.**

The Licensee on July 14, 2005 entered into a Stipulated Order through which he agreed to surrender his license while under investigation. The Board through the Order prohibited him from reapplying for licensure for a minimum of two (2) years, and required that he obtain an evaluation before his application for license reinstatement can be considered.

### **WADE, Gary L., MD16942; Yreka, Calif.**

The Licensee on July 14, 2005 entered into a Corrective Action Order acknowledging the requirement and importance of appearing before the Board's Investigative Committee (IC) when invited to do so. Through the Order, the Board required an appearance and interview before the IC as a condition of any future applications for Active licensure in Oregon.

### **WHANG, Edward K., MD10381; Portland, Ore.**

The Board on September 1, 2005 issued an Order of Emergency Suspension on September 1, 2005. The Board took such action because of the Licensee's non-compliance with a Board order, and because of concerns regarding possible neurocognitive impairment and inappropriate physician-patient boundaries on the Licensee's part.

### **WINANS, William E., DO07880; Tualatin, Ore.**

The Licensee on October 6, 2005 entered into a Stipulated Order through which he agreed to permanently retire his Oregon license while under investigation. The Order also prohibits the Licensee from practicing in a volunteer capacity.

### **WITKOPP, George F., MD10695; West Linn, Ore.**

The Board on July 14, 2005 issued a Final Order revoking the Licensee's medical license. ■



## Statement of Purpose

# BME REPORT

**The mission of the Oregon Board of Medical Examiners** is to protect the health, safety and well being of Oregon citizens by regulating the practice of medicine in a manner that promotes quality care.

**The BME Report is published** to help promote medical excellence by providing current information about laws and issues affecting medical licensure and practice in Oregon.

# OREGON ADMINISTRATIVE RULES

## OARS Reviewed and Adopted by the Board of Medical Examiners

The Board at its April 14-15, 2005 meeting reviewed the following Oregon Administrative Rules (OAR):

### ADOPTED RULES

#### Final Review July 2005

### ALL LICENSEES

**OAR 847-005-0005, Fees** – The rule change deleted “in state” for Active license status and “out of state” for Inactive status, and added to the fee schedule the following statuses: Active – Military/Public Health, Active – Teleradiology and Telemedicine.

**OAR 847-010-0100, Mandatory Pain Management Education** – The new rules require all BME licensees to obtain six (6) hours of continuing medical education (CME) in pain management and/or treatment of terminally ill and dying patients.

Licensees also are required to complete a one-hour pain management course specific to the state of Oregon, provided by the Pain Management Program in the Department of Human Services (DHS). The required CME must be obtained before January 2, 2009.

The new rules were written and adopted in accordance with Chapter 987 of Oregon Laws 2001, which the Legislature that year adopted as Senate Bill (SB) 885.

### MDs/DOs

**OAR 847, Division 020, Basic Requirements for Licensure of a Foreign Medical School Graduate** – The adopted amendments to OAR 847-020-0130, 847-020-0160 and 847-020-0170 change some basic licensure requirements for graduates of foreign medical schools.

The Board made several substantive changes. In OAR 847-020-0130 (2) (b), the Board added the phrase “in the country in which it (*the medical school*) is chartered” after the phrase “physical on-site attendance.”

In OAR 847-020-0160 (4), the Board deleted the phrase “who practice the same specialty” from proposed language regarding letters of recommendation.

In OAR 847-020-0170 (5), the Board deleted subsection (c), which had contained a requirement that applicants take

and pass the Special Purpose Examination (SPEX) within 10 years of filing an application with the Board.

**OAR 847-020-0170, Written Examination, SPEX and Personal Interview** – The adopted amendments make a few corrections to the rules, add a requirement for licensure of foreign medical graduates and require reference letters for physicians who have been in solo practice.

### EMERGENCY MEDICAL TECHNICIANS (EMT)

**OAR 847-035-0030, Scope of Practice** – The new rules change the airway language in the First Responder and EMT-Basic scope of practice, allowing EMTs-Basic to obtain capillary blood specimens for blood glucose monitoring, and changing “needle cricothyrotomy” to “percutaneous cricothyrotomy” in the EMT-Paramedic (P) scope of practice.

### Podiatrists

**OAR 847-080-0018, Endorsement, Oral Examination, Competency Examination and Personal Interview** – The new rule states the number of years within which all three parts of the National Board of Podiatric Medical Examiners (NBPME) examination must be passed, and describes a possible waiver if the applicant has passed all three parts in more than seven years. The new rules also require applicants to pass Part III of the NBPME examination within three attempts. Applicants who fail to do so are now required to complete a year of Board-approved postgraduate training before attempting to pass Part III for the fourth and final time.

### October 2005

### PHYSICIAN ASSISTANTS (PA)

**OAR 847-050-0029, Locum Tenens** – The adopted rule specifies that an MD/DO applicant for a *locum tenens* must have Active or *Locum Tenens* registration status with the Board.

*(continued on page 11)*

## OARs (continued from page 10)

### Acupuncturists (LAc)

**OAR 847, Division 070: Qualifications; Interview and Examination; Inactive Registration; and Reactivation from Inactive to Active License Status** – The adopted rules update the language on the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examinations and certification, which have recently changed. A new section was added, describing steps the Board may take to ensure that applicants, if they have been out of practice for 12 months or longer, remain competent to practice. This same language is being added to the section regarding license reactivation from Inactive to Active status.

### Podiatric Physicians (DPM)

**OAR 847-080-0010, Requirements for Licensure** – The adopted rule adds the requirement that a podiatric physician applicant must have graduated from a school or college of podiatric medicine accredited by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association (APMA).

## PROPOSED RULES

### First Review October 2005

The Board discussed these rule proposals on First Review, and passed them to Final Review:

### MDs/DOs

**OAR 847-010-0052, Limited License, Visiting Professor** – The proposed rule amendment would make a correction to a typographical error involving the citation of another rule.

**OAR 847, Division 020: Limited Licenses, Medical Faculty and Visiting Professor; Required Documents and Forms; Written Examinations; SPEX; Endorsement and Reciprocity; Personal Interviews** – The proposed rule amendments would:

- Correct in OAR 847-020-0140 a typographical error involving the citation of a another rule;
- Add to OAR 847-020-0150 the requirement that results of the Self-Query of the National Practitioner Data Bank (NPDB) and the Health Integrity and Protection Data Bank (HIPDB) must be submitted to the Board by the applicant;

- Add to OAR 847-020-0170 the procedure for an applicant to follow if s/he fails one or both of the Oregon Medical Practice Act and U.S. Drug Enforcement Administration (DEA) open-book examinations three times; and,
- Correct the name of Oregon Health and Science University (OHSU) as it is cited in rules.

**OAR 847-031-0020, Protocol for Evaluation of Foreign Schools of Medicine** – The proposed rule amendment would correct a typographical error by removing unnecessary text from the rule.

### PHYSICIAN ASSISTANTS (PA)

**OAR 847, Division 050: Limited License, Special; Prescription Privileges; Duties of the Physician Assistant (PA) Committee** – The proposed rule amendments would:

- Make a correction to the rules text regarding the duration of validity for the Limited License, Special;
- Add requirements regarding authority to use Schedule II drugs for management of chronic and intractable pain;
- Change the term “certification” to “licensure” for consistency in the rules; and,
- Add making recommendations regarding PA prescribing privileges for Schedule II drugs to the duties of the PA Committee, by adding such drugs to the existing formulary for PA prescribing privileges.

*Comments concerning the proposed rules must be made to the Board in writing by Monday, November 21, 2005. The Board will make Final Review of the proposed rules and rule amendments at its January 12-13, 2006 meeting.*

*The Board's mailing address is 1500 S.W. First Ave., Suite 620, Portland, OR 97201-5826. For more information on OARs, visit the BME Website at [www.oregon.gov/BME](http://www.oregon.gov/BME).*

## ABOUT OARs

The Board of Medical Examiners and other state regulatory agencies operate under a system of administrative rules, in order to ensure fairness and consistency in their procedures and decisions. Periodically, these Oregon Administrative Rules (OAR) must be amended and/or expanded in response to changing standards and circumstances.

OARs are written and amended in accordance with state laws (Oregon Revised Statutes or ORS), which may be enacted, amended or repealed only by the Legislature.



*It's the law! You must notify the BME within 30 days of changing your practice address or mailing address. To help ensure that you receive your license renewals and other important information on time, call the BME for an address change form, or print the form from [www.oregon.gov/BME/forms/shtml](http://www.oregon.gov/BME/forms/shtml).*

A composite image showing a hand pointing towards a computer keyboard and a telephone. The hand is on the left, pointing towards the center. The keyboard is in the background, and the telephone is in the foreground on the right.

***BME Information at Your Fingertips!***

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