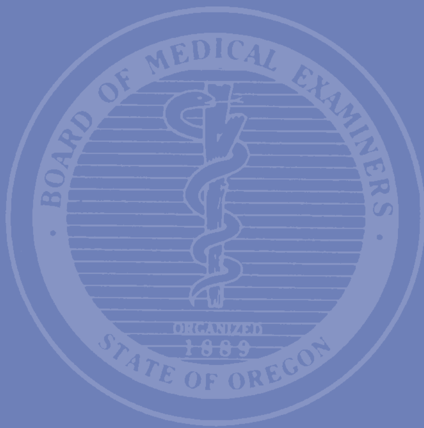

OREGON BOARD OF MEDICAL EXAMINERS

BME REPORT

WINTER/SPRING 2002

www.bme.state.or.us

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Pain Management

Don't prescribe less – chart better

Susan W. Tolle, M.D. and Susan E. Hickman, Ph.D.

During the coming months, Oregon is expected to be in the media spotlight on the issue of prescribing controlled substances, particularly for dying patients.

In the fall of 2001, U.S. Attorney General John Ashcroft issued an opinion that the federal Controlled Substances Act prohibits physicians from prescribing medication under the state of Oregon's Death With Dignity Act.

Oregon's state Attorney General Hardy Myers filed suit in federal court, challenging this opinion. Hearings are expected to be held in the spring of 2002.

Increased media attention on prescribing privileges may potentially heighten physician concerns about the prescribing of controlled substances. In other states, such as Utah, the number of morphine prescriptions decreased following civil investigations and the conviction of a physician for the alleged morphine overdoses of several patients. Many believe that the specter of investigation can deter some physicians from appropriate prescribing. Nurse practitioners, who recently gained Schedule II prescribing privileges, also may be susceptible to such pressures.

Oregon data highlights this potential. Oregon Health & Science University's (OHSU) Center for Ethics in Health Care has tracked a range of markers in end-of-life care in Oregon for more than a decade from a variety of sources. These include:

- Declining in-hospital death rates;
- The rising rates of advanced-care planning;
- The use of Physician Orders for Life Sustaining Treatment (POLST);
- The increasing rates of hospice referral; and
- The overall rates of morphine use.

These markers of quality end-of-life care have shown steady improvement, with one exception. Family reports of moderate or severe pain in dying hospitalized patients increased in late 1997. Family reports of pain did not change for loved ones dying in long-term care facilities or at home.

In 1998, we sent a survey* to physicians and nurses throughout Oregon, asking them to help us better understand the factors that contributed to this finding. Although results suggest that respondents viewed more than one factor as responsible for the increase in family reports of pain, two-thirds thought physician prescribing of inadequate pain medication was a partial explanation. Physicians who thought reduced physician prescribing was a partial factor rated fears of the Oregon Board of Medical Examiners (OBME) and

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* Hickman SE, Tolle SW, Tilden VP. Physicians' and nurses' perspectives on increased family reports of pain in dying hospitalized patients. J Palliat Med 2000; 3(4):413-18.

From the Executive Director

I have asked *BME Report* editor Dianne Cole to write this month's column as a tribute to J. Scott Heatherington, DO. Mrs. Cole was acquainted with Dr. Heatherington through his church, whereas I never had the privilege of knowing him, although I have enjoyed my association with his son, Jeff Heatherington, Executive Secretary of Osteopathic Physicians and Surgeons of Oregon, Inc.

Kathleen Haley

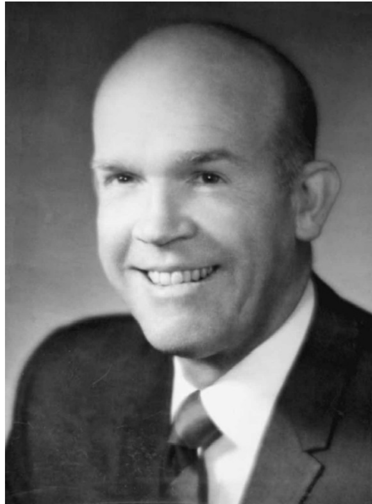
Remembering Scott Heatherington

J. Scott Heatherington, DO, was born April 22, 1919, in Athol, Kansas. He acquired his Bachelor of Science, with a major in biology, from York College in York, Nebraska, in 1941. He graduated from the Des Moines Still College of Osteopathy in Iowa in 1944, and interned at Detroit Osteopathic Hospital in Detroit, Michigan.

He was first licensed in Oregon on December 10, 1945, and practiced in Medford before opening a practice with E.L. Burnham, DO, in Gladstone in 1957. In 1974 he moved to Tulsa, Oklahoma, where he served as Dean of the Oklahoma State University College of Osteopathic Medicine, and later as Director of Medical Education at Tulsa General Hospital. In 1980 he returned to Oregon to create and direct Eastmoreland Hospital's Osteopathic Manipulative Medicine Department. During his long career he received much recognition, including osteopathic medicine's highest award, the Andrew Taylor Still Medallion of Honor.

Dr. Heatherington passed away on December 3, 2001. He is survived by his wife Gerry, to whom he was married for 59 years; sons Jeff, Doug, and Marc; five grandchildren; and five great-grandchildren.

In a way, Scott Heatherington's passing marked the end of an era for osteopathic medicine in Oregon. When he began practice, some still questioned osteopathic medicine's concepts. Today, osteopathic medicine has long been firmly established, and much of the rest of the medical community has embraced its "whole person" approach and emphasis on prevention. Scott Heatherington helped make that happen, devoting a lifetime to furthering his profession.



Scott Heatherington, DO

He was among the physicians who established Eastmoreland Hospital in the late 1950s so osteopathic physicians would be sure of a place to practice. At his memorial service his good friend Al Turner, DO, said Scott Heatherington had literally helped dig Eastmoreland's foundation. That he would pitch in and help dig surprised no-one; when something needed doing, he had a way of being there to do it.

During his career, he served as president of the American Osteopathic Association, the Osteopathic Physicians and Surgeons of Oregon, and the American Academy of Osteopathy, and as founding president of the Northwest Osteopathic Medical Foundation.

But it's one thing to build a hospital or an organization, and another to build respect for a profession. That can only be established on the skill and integrity of its practitioners, and in that job Scott Heatherington was a master builder—so much so that the Northwest Osteopathic Medical Foundation named its highest award, granted for leadership in the osteopathic medical profession, the Scott Heatherington Award.

He was a devoted physician, embodying all the best that the word implies of knowledge, dedication and compassion. He truly loved medicine. Three times he "retired," but he just couldn't seem to stay that way. Even after turning 80, he continued to see patients two days a week until two months before he died.

He was a life-long scholar. Along with constant learning came constant teaching, helping

continued on next page

Oregon Board of Medical Examiners

Statement of Philosophy

Medical Use of Lasers

The U.S. Food and Drug Administration (FDA) regulates the sale of lasers under the Centers for Devices and Radiological Health. It is a device that only a licensed practitioner can purchase.

Destruction, incision, ablation or the revision of human tissue by use of a laser is surgery.

Complications from the medical use of lasers can include visual impairment, blindness, inflammation, burns, scarring, hypopigmentation and hyperpigmentation.

The Oregon Board of Medical Examiners adopts the position that the medical use of lasers is the practice of medicine as defined by ORS 677.085:

"(3) Offer or undertake to perform any surgical operation upon any person.

"(4) Offer or undertake to diagnose, cure or treat in any manner or by any means, methods, devices or instrumentalities, any disease, illness, pain, wound, fracture, infirmity, deformity, defect or abnormal physical or mental condition of any person."

Physicians using lasers should be trained appropriately in the physics, safety and surgical techniques of using lasers and intense pulsed light devices, as well as pre- and post-operative care. Any physician who delegates a procedure using lasers or intense pulsed light devices to a non-physician should also be qualified to do the procedure themselves by virtue of having received appropriate training in physics, safety and surgical techniques using lasers and intense pulsed light devices, as well as pre- and post-operative care.

Any allied health professional employed by a physician to perform a laser or intense pulsed light procedure should have received documented training and education in the safe and effective use of each system, and may carry out specifically designed laser procedures only under direct physician supervision, and following written guidelines and/or policies established by the specific site at which the laser procedure is performed.

The ultimate responsibility for performing any procedure lies with the physician. The supervising physician should be on-site, immediately available, and able to respond promptly to any questions or problems that may occur while the procedure is being performed.

The guiding principle for all physicians is to practice ethical medicine with the highest possible standards to ensure the best interest and welfare of the patients.

- Adopted by the Board January 18, 2002

Scott Heatherington *(continued from page 2)*

others to grow.

He was a friend to all. I cannot recall his ever speaking an unkind word to or about anyone. He truly loved everyone, and was loved in return. Perhaps this was never more evident than in the final days of his life, in the outpouring of love mixed with gentle humor with which he greeted the steady stream of visitors to his hospital room, and in the way he put them at ease with his situation, sharing with them his peace with his own dying. Those who came to comfort went away comforted. Those who came to serve were in turn served.

The legacy Dr. Scott Heatherington left to all who knew him was the golden example of a life well lived. His was an open mind that kept on learning, an open heart that kept on loving, and open hands that kept on giving, right to the very end of a long and productive life.

Statement of Purpose

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.

MD/DO Renewal Update

The BME would like to say "thank you" to the thousands of licensees whose prompt and conscientious completion of their registration forms helped make the 2001 biennial license renewal go so smoothly. The forms you completed supply much of the information the Board is required to make available to medical providers and the public, and your fees support the Board's legislatively mandated mission.

In three short months, 11,853 renewals were processed, taking an average of 10 days from the time the form was received to the time the certificate was sent. This is a record, beating the 1999 average by 9 days. New procedures and computer programming contributed to the gain in efficiency.

Nineteen percent of renewing licensees took advantage of a relatively new BME service to pay by credit card.

During the summer of 2001, the Board commissioned a study of its renewal procedures. This was in response to a directive by the 1999 Legislature that certain licensing boards study their renewal processes to assess the feasibility of changing from biennial renewal systems to systems based on the licensee's birth date.

Somewhat surprisingly, the study revealed that at this point a biennial system is the most efficient and cost-effective, helping to keep licensee fees down. In addition, organizations that pay renewal costs for numerous physicians were overwhelmingly in favor of retaining the biennial system, which lets them pay for all physician employees at the same time. In view of this, the BME has no plans at this time to change to a birth-date based renewal system.

Pain Management

(continued from page 1)

the U.S. Drug Enforcement Agency (DEA) as the most likely explanations for decreased physician prescribing.

It is important to note that the OBME's position is that physicians should make every effort to relieve the pain and suffering of their dying patients and that narcotics should not be withheld because of a fear of hastening death. In fact, the OBME has disciplined a physician for inadequate use of pain-relieving medications in dying patients.

In light of upcoming events, these data raise grave concerns and call on all of us to take a more active role in public discussions about pain medication. We must work together to ensure that patients, particularly those who are dying, will continue to receive appropriate medication to control their pain and suffering regardless of what is occurring in the political arena.

The message we share with all of our colleagues statewide is simple: Don't prescribe less for dying patients and those with terminal diseases – chart better. We urge you to resist the fear of possible negative consequences to prescribing controlled substances when addressing suffering in the dying. Instead, spend a few extra minutes to clearly document the need for medication in the patient's medical record. For example, in a patient with metastatic prostate cancer, you could document your orders to increase pain medication with the following: "Patient has metastatic cancer to the bone and bone pain has substantially increased. Morphine doubled to control pain." You could use this approach for other symptoms (e.g. dyspnea) that require controlled substances for optimal symptom alleviation. The brief progress note should clearly indicate your intention to control symptoms with the order to administer or adjust the dosage of a controlled substance.

The best defense is a good offense. Careful documentation adds clarity to any questions regarding your motives in prescribing controlled substances. Thorough documentation, rather than a change in prescribing practices, is an appropriate response for all health care professionals in Oregon. This is particularly important in a climate in which the media may soon bring its spotlight back to the issue of controlled substances and seriously ill patients.

Susan W. Tolle, M.D., is Director of OHSU's Center for Ethics in Health Care.

Susan E. Hickman, Ph.D., is a Project Director in the Center's Program of Research on Ethics and End-of-Life Care.

The Fall 1998 issue of the BME Report *carried the article "Pain Management in the Dying," co-authored by Dr. Tolle and BME Executive Director Kathleen Haley. To access this article, go to* ***www.bme.state.or.us****, click on* ***Topics of Interest****, and go to the section on* ***Intractable Pain and Pain Management****.*

Board Actions – October 20, 2001- January 18, 2002

Following is a summary of the actions taken by the Oregon Board of Medical Examiners between October 20, 2001 and January 18, 2002. To find a glossary of the terms used in this article, go to the Board's Web site, **www.bme.state.or.us**, click on **Board Actions**, and click on **glossary of terms**.

BASSINGER, LARRY L., MD06373, Albany, OR
A corrective action order was entered on November 7, 2001. Licensee will not diagnose, treat or prescribe medications for Patient A, and will participate in and complete the Appropriate Prescribing Workshop.

COULTER, JAMES A., MD09920, Turner, OR
A modified voluntary limitation was entered on January 17, 2002, replacing a previous voluntary limitation dated December 17, 1986, and prohibiting licensee from scheduling or performing any surgery as the primary operating surgeon.

DAVIDOFF, LESLIE, MD, LL10317, Portland, OR
A stipulated order was entered into on January 17, 2002, returning licensee back to practice under a limited license, postgraduate, with conditions including participation in the Health Professionals Program, remaining under the care of a primary physician, and informing her residency program director of the order.

DOPSON, WARREN F., MD16288, Eugene, OR
A stipulated order was entered into on January 18, 2002, prohibiting licensee from practicing in a critical care or telemetry unit without first completing a corrective action plan, including retraining and proctoring.

DUONG-TRAN, JOHN, MD18877, San Diego, CA
An order of suspension was entered on January 18, 2002, for failure to pay child support as required under ORS 25.750 and ORS 25.780.

GROSSBERG, DANIEL A., AC00392, Cave Junction, OR
A stipulated order was entered into on January 18, 2002. Licensee was reprimanded; licensee will maintain a physician/patient relationship with a mental health provider; licensee will complete CME courses related to establishing and maintaining appropriate doctor/patient boundaries; and licensee will not treat patients A and B.

LUU, HUONG T., MD18987, Vancouver, WA
An interim stipulated order was entered into on January 18, 2002. Licensee will not see or treat female patients for obstetric or gynecological issues; licensee will use a chaperone for all other female patients; and licensee is prohibited from taking photographs or digital images of any patients.

MORTON, WILLIAM E., MD06975, Portland, OR
A stipulated order was entered into on January 17, 2002. Licensee agreed to retire his Oregon medical license in lieu of further investigation.

OSOVA, SUSAN L., MD, LL06049, Beverly Hills, CA
A stipulated order was entered into on January 17, 2002, granting an inactive permanent license under the condition that when and if applicant applies for an active license she agrees to obtain an updated mental health evaluation and establish a doctor/patient relationship with a mental health provider.

VESCOVO, MARGARET V., MD, Applicant, Portland, OR
A stipulated order was entered into on October 28, 2001. Licensee was granted a license to practice medicine under the following conditions: probation; participate in, affiliate with and maintain compliance with the Oregon Health Professionals Program; and abstain from using alcohol or any mood altering or potentially addictive substances.

VOGEL, WILLIAM L., PA00462, Cottage Grove, OR
A corrective action order was entered on January 17, 2002, requiring licensee to complete a course on cardiac care.

Web Site Working

Not long ago, the BME got an email from a medical transcriptionist who was having trouble getting into its Web site. She called it an "indispensable tool" for finding what cities practitioners work in, their correct titles, correct spellings of names, and other information.

Her access problems were soon solved, and we greatly appreciated her telling us how she used the site and that it was working for her the way we had hoped it would.

While usage varies from month to month, we regularly count over 15,000 "hits" per month, and often well over 20,000. In January of this year, there were around 27,000, up from around 14,000 a year ago. This tells us two things: more people are learning about the site, and we are providing information people need.

Oregon citizens, hospitals, and pharmacists find information about practitioners and answers to many of their questions. Applicants find information about becoming licensed in Oregon. Current licensees find address change forms, information about Board services, links to Oregon statutes and rules administered by the Board, and information about important issues affecting their practice. Everyone finds back issues of the *BME Report* and links to numerous other medically-related Web sites.

We are glad it is working, and want to make it work better still. If there is something you need that isn't on our Web site now, please contact us by clicking on "Comments about this Web site?" at the bottom of our home page. Our Web Site Committee wants to hear from you.

Oregon Board of Medical Examiners
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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.bme.state.or.us/forms.html.

Licensing Action Report Now on Web

The Licensing Action Report, which lists all licensees who are currently under a Board order and includes a brief description of the action, is now available on the Board's Web site. To access this report, go to **www.bme.state.or.us**, click on **Information About Licensees**, and then on **Licensing Action Report**. The report is available in both pdf and html formats.

This report used to be available by paid subscription only. (Printed copies are still available for a fee.) The Board also has an email notification service available without charge. To be notified electronically each time a new report is posted, please contact Susan Erickson at (503) 229-5873, ext. 234, or email her at **susan.erickson@state.or.us**.