

*Inside:*

*Case Study:
Standard of Care*

*Pharmaceutical
Security*

Board Actions

*Oregon
Administrative
Rule Changes*



Thoughts on Six Years of Board Service

*By Lisa G. Dodson, M.D.
Board Member Emeritus*

Like many worthwhile endeavors, (parenting comes to mind), I didn't really know what I was getting into back in 1997, when I agreed to serve on the Oregon Board of Medical Examiners. Armed with a belief that it is our responsibility as physicians to regulate our own profession, I set out from my rural practice ready to swing into action. And as with becoming a parent, it is only after it is too late to turn back that the awesome responsibility and time commitment become a reality.

Six years on the board led to countless hours of work reviewing cases, learning the nuances of the Oregon Medical Practice Act and combing through the medical literature for information on practice standards. So, while I will admit that I will be happy to reclaim my evenings and weekends from the monthly appearance of rolling suitcases full of BME materials – part of the routine of my life for the last few years – I am grateful for what this experience has taught me.

Through both positive and negative examples, I have come to learn so much from my colleagues and peers. I have been humbled by the complexity of medical practice and the challenges of the climate in which we are practicing. I have been reminded that physicians are human, and

are subject to frailties, misjudgments and errors, but also demonstrate great sacrifice on behalf of our patients and society.

I have seen countless examples of doctors doing difficult work in difficult times. Even though most of the cases we review are found to be within the standard of care, I have come to understand how difficult the process is and how painful it is to have our work and practices questioned.

Lessons Learned

Some lessons I have learned from my Board experience include:

- Stay current. Medicine changes, new standards are developed.
- Don't become isolated. Isolation makes us vulnerable.
- Know the standards in your community.
- Acknowledge your humanity. Get help when you need it.
- Learn and practice good communication skills with patients, staff and colleagues.
- Practice good charting.
- Understand and respect professional boundaries.

(continued on page 2)

State of Oregon
BOARD OF MEDICAL EXAMINERS

FRANK J. SPOKAS, M.D., Chair
Ontario

JOSEPH J. THALER, M.D., Vice-Chair
Salem

DAVID R. GRUBE, M.D., Secretary
Philomath

SURESHT R. BALD, Ph.D.
Public Member - Salem

CLIFFORD W. DEVENEY, M.D.
Portland

NATHALIE M. JOHNSON, M.D.
Portland

GARY J. LECLAIR, M.D.
Eugene

PATRICIA L. SMITH
Public Member - Bend

JOHN C. STIGER, D.O.
Milwaukie

SHERIDAN A. THIRINGER, D.O.
Vernonia

DAVID G. WATT, M.D.
Portland

KATHLEEN HALEY, J.D., Executive Director
PHILIP F. PARSLEY, M.D., Medical Director

MICHAEL SIMS, Editor

1500 SW First Ave., Suite 620
Portland, OR 97201
(503) 229-5770

Toll-free in Oregon: 1-877-254-6263
Fax: (503) 229-6543
www.bme.state.or.us

Diversion Program (Tigard): (503) 620-9117

Thoughts on Six Years of Board Service *(continued from page 1)*

The physician and public members, committee members and staff of the Board of Medical Examiners are among the most honorable and dedicated individuals that I have ever encountered. The board members want what we all want for our own families: the safe and effective practice of medicine for all the citizens of Oregon.

Unlike other states, the Oregon BME physicians are all actively in practice, representing a broad range of specialties and all areas of the state. They are truly your peers. I would encourage you to become involved in improving the quality of medical care in Oregon through your hospital or medical group peer review process, or as a consultant, committee or board member for the BME.

My six years on the board have brought change to my life and my practice and to the state of Oregon. I consider it an honor and a privilege to have represented the citizens of Oregon and my profession on the BME.

Lisa G. Dodson, M.D., retired from the Board of Medical Examiners this spring after six years of service. At the time of her appointment, she lived and practiced in John Day. Later, Dr. Dodson and her family relocated to the Portland area, where she is on the medical faculty at Oregon Health and Science University. ■

DISPENSING PRIVILEGES REQUIRED FOR SOME SUPERVISING PHYSICIANS

The Board in July approved a requirement that physicians who supervise physician assistants (PA) and/or nurse practitioners with dispensing privileges must, themselves, be dispensing physicians.

The Board and Physician Assistant Committee members and staff will draft an Oregon Administrative Rule (OAR) amendment reflecting the new requirement, and also will develop new language for practice description forms by the beginning of the next PA registration period (January 1, 2006). ■

PHARMACY BOARD GIVES REMINDERS ON DRUG SECURITY, PRESCRIBING

The Oregon Board of Pharmacy offers two reminders to physicians regarding the secure storage and prescribing of controlled substances:

Sample Security: The security of drug samples is crucial to the prevention of drug diversion from clinic inventories. Proper policies and procedures must be developed and enforced to ensure that samples are accessible only by appropriately authorized staff. Precautions should be taken to prevent staff theft of drug samples. In addition, many clinics have encountered manufacturer representatives removing samples from other manufacturers for personal use.

Verbally Ordering Controlled Substances: Verbally ordering and/or authorizing Class II controlled substances via the telephone is permitted under very limited circumstances. Such practitioner authorization is permitted only in emergencies, and only in quantities sufficient to see patients through emergency periods, according to CFR 1306.11(d). Additional prescription orders must be executed for any continuation of therapy. The same prescriber authorizing an emergency supply of such medication must provide the pharmacist with a manually signed prescription order for the emergency supply within seven (7) days. Manually signed, faxed Class II prescriptions may serve as originals for patients living in long-term care facilities, according to the CFR.

In emergency situations, direct communications by prescribers to pharmacists are crucial, because there may be a variety of questions to be answered before Class II emergency prescriptions can be dispensed. Therefore, prescribers are strongly urged to call pharmacists in order to avoid delays in deliveries of medication to patients. This applies to orders that are communicated by prescribers to long-term care facilities, and then in turn faxed by such facilities to pharmacists. ■

Issues in Monitoring Long-Term Anticoagulation

By Philip F. Parshley, M.D.
BME Medical Director

The Board of Medical Examiners (BME) has opened several recent investigations based on malpractice settlements or jury verdicts arising from complications of long-term vitamin K antagonists, i.e. warfarin (Coumadin). These complications resulted from inadequate and/or inconsistent monitoring of the effects of this drug.

The use of vitamin K antagonists is indicated for prevention of systemic embolization associated with various cardiac conditions including a recent MI, the presence of prosthetic or bioprosthetic heart valves, mitral-valve disease in sinus rhythm and nonvalvular atrial fibrillation. These drugs are also indicated for prevention of recurrent disease including ischemic stroke in atrial fibrillation, myocardial infarction and venous thromboembolism.³

The vast majority of complications of vitamin K antagonists are either significant hemorrhage or failure to prevent embolization. These complications may occur with even the most skilled monitoring of the dosage based on laboratory studies and with the INR in the target range, but they are much more likely when there is poor control and the INR is either very high or below therapeutic range.

This article will address only the issues surrounding monitoring the dose of the vitamin K antagonist, warfarin by an individual provider. Indications for anticoagulation, establishing the target range for the INR, alternative methods of anticoagulation, length of time to maintain anticoagulation, interruption of therapy for invasive procedures and other issues are addressed very well in

the three references listed below.

Alternatives to management of the dosage of vitamin K antagonists by an individual provider include 1) an anticoagulation management service (AMS), 2) point-of-care (POC) prothrombin time (PT) testing that allows self testing (PST) and 3) computer programs to aid in dose adjustments¹.

The standard measure of the effect of the vitamin K antagonists is the prothrombin time (PT), and the development of the international normalized ratio (INR) for reporting the results of a PT has made for better standardization and for more accurate comparison of results. Once the target range for the therapeutic level of INR, usually 2.0-3.5, has been reached and appears to be stable interval recheck of the INR is still necessary to prevent either under or

(continued on page 7)

DRUG OR ALCOHOL PROBLEM?

**If you are concerned about a fellow physician
who may be abusing alcohol or other drugs,
you can get assistance by contacting the BME's Diversion Program
for Health Professionals — also known as "HPP" or "Diversion."**

**Your call may save a physician's life ...
or a patient's!**

ALL CALLS ARE CONFIDENTIAL

(503) 620-9117 • www.bme.state.or.us/healthprog

**DIVERSION PROGRAM FOR HEALTH PROFESSIONALS
6950 S.W. Hampton St., Suite 130
Tigard, OR 97223-8331**

BOARD ACTIONS – May 1, 2004 to July 9, 2004

**CAHN, Paul J., MD19037;
Beaverton, Ore.**

The Licensee entered into a Stipulated Order with the Board on July 9, 2004. In this Order, the Licensee agreed to the following terms: Probation, reprimand, fine, no clinical supervision of physician assistants, completion of PEER, completion of a documentation course, quarterly Board reporting. The Licensee also was directed to provide hospital and clinic administrators with a copy of the order.

**CLINKINGBEARD, Cynthia L., MD25344;
Middleton, Idaho**

The Applicant entered into a Stipulated Order with the Board on July 9, 2004. This Order granted the Applicant an Oregon medical license under the following conditions: No solo practice; Practice only in a Board-approved setting; Applicant must remain under the care of a physician and psychiatrist who shall submit quarterly reports to the Board; Applicant must provide her health care providers with copies of the order; Applicant and her health care providers must notify Board if there are any changes in her condition which would adversely affect her ability to practice.

**DIERDORFF, John T., DO06866;
Forest Grove, Ore.**

The Licensee entered into an Interim Stipulated Order with the Board on May 6, 2004. In this Order, the Licensee agreed to use chaperones when examining or treating female patients and agreed not to engage in a dating or sexual relationship with any current patient or former patient that he has treated within the past six months. This Order remains in effect until the conclusion of the Board's ongoing investigation regarding allegations of sexual boundary violations with female patients.

**ELLIOTT, Robert M., MD18653;
Newport Beach, Calif.**

The Licensee entered into a Stipulated Order with the Board on May 6, 2004. In this Order, the Licensee agreed to surrender his Oregon medical license while under investigation.

**FREEMAN, Dale O., LAc, AC00213;
Sheridan Ore.**

The Licensee entered into an Interim Stipulated Order with the Board on July 9, 2004. This Order prohibits the Licensee from treating female patients, requires that he use appropriate draping and gowns for all patients, and requires that he maintain accurate and up-to-date charts. This Order will

remain in effect until the conclusion of the Board's ongoing investigation into allegations of inappropriate treatment and inappropriate touching.

**GINSBURG, Marvin L., MD20864;
Canyonville, Ore.**

The Licensee entered into a Stipulated Order with the Board on May 6, 2004. Through the Order, the Licensee was reprimanded and fined. The Licensee must obtain additional training before he can perform colonoscopies (including sigmoidoscopies) or upper gastrointestinal endoscopic procedures.

**KELLER, Erik J., ND, Applicant 20864;
Portland, Ore.**

The Applicant entered into a Stipulated Order with the Board on July 9, 2004, in which he agreed to withdraw his application for an Oregon acupuncture license while under investigation.

**LEVEQUE, Phillip E., DO10919;
Molalla, Ore.**

The Board issued an Order Denying Motion for Stay of Emergency Suspension on May 6, 2004. This Order denied Licensee's request to stay the Board's Order of Emergency Suspension of March 12, 2004.

**LITTELL, Ned G., MD16406;
Longview, Wash.**

The Licensee entered into a Stipulated Order with the Board on July 9, 2004. Through the Order, the Licensee agreed to surrender his Oregon medical license while under investigation.

**LOGAN, Jacqueline S., MD20914;
Portland, Ore.**

The Licensee entered into a Stipulated Order with the Board on July 9, 2004. In this Order, the Licensee agreed to the following terms: Reprimand, no prescribing controlled substances, may not work more than 32 hours per week, practice setting must be pre-approved by Board, enrollment in the BME Health Professionals Program (HPP or "Diversions").

**MALETZKY, Barry M., MD07737;
Portland, Ore.**

Licensee entered into a Stipulated Order with the Board on May 5, 2004. Through this Order, the Licensee surrendered his Oregon medical license while under investigation.

(continued on page 5)

Board Actions *(continued from page 4)*

MOOS, Steven G., MD20201; Tigard, Ore.

The Board issued a Final Order by Default on July 9, 2004. This Order revoked his Oregon medical license, imposed a \$5,000 fine, issued a reprimand and assessed costs related to his April 21, 2004 contested case hearing.

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

The Licensee entered into an Interim Stipulated Order on July 9, 2004. In this Order, the Licensee agreed not to treat female patients and to respect patient autonomy and boundaries. The terms of the Order are in effect pending the conclusion of the Board's ongoing investigation regarding allegations of professional boundary violations.

RUFF, Ron H., MD17527; Portland, Ore.

The Licensee entered into a Stipulated Order with the Board on July 9, 2004. In this Order, the Licensee agreed to the following terms: Reprimand, fine, completion of a self-study course on proper billing, semi-annual chart audit.

WIGGINS, Lloyd H., MD13214; Corvallis, Ore.

The Licensee entered into a Stipulated Order with the Board on May 6, 2004. This Order placed the Licensee on 10-years of probation, suspended his license for 30 days but stayed the suspension, issued a reprimand and a fine, required quarterly reporting to the Board, required the Licensee complete coursework in ethics, and mandated Board inspection of billing and medical records regarding use of CPT codes. Such inspection is to take place with no prior notice to the Licensee. ■

CASE STUDY: Standard of Care

In the winter of 2002-03, the BME received a complaint from a physician regarding a colleague's performance of endoscopies (including colonoscopies) under conscious sedation in an urgent care clinic, as being outside the standard of care for the mid-sized community. The preferred standard of care in this locality calls for such procedures to be performed in a surgicenter or hospital where immediate care can be provided if problems arise.

The complaining physician also expressed concerns that the physician performing the endoscopies had not completed an accredited fellowship program in gastroenterology, nor had the physician received appropriate training in a residency program such as general surgery. It was noted that the physician who was the object of the complaint had previous sigmoidoscopic experience, but had never performed a colonoscopy or gastroscopy. Rather than taking specialized training or performing the procedures under the guidance of a trained and experienced physician, the physician in question had simply conferred with and observed colleagues performing the procedure.

In addition, there was no way to verify the physician's qualifications to perform such procedures, as he had not applied for hospital privileges. It was also noted that in the event of complications, the lack of hospital privileges would prevent the physician from admitting and caring for the patient in a hospital setting.

The physician's complaint also included a patient who underwent a diagnostic colonoscopy for chronic diarrhea, in which no mucosal biopsies were obtained. The complainant explained that this not only inconvenienced the patient, but also increased the risk to the patient by probably requiring an additional colonoscopy for the biopsies.

In addition, the facility in which the physician in question had practiced and conducted endoscopic procedures on approximately 90 patients was not a certified surgical facility, although it did have an advanced cardiac life support (ACLS) crash cart. Had serious complications arisen, the physician planned to transport the patient via ambulance to a full-service hospital nearly an hour's drive from the clinic.

The Board found the physician to be in violation of provisions of the Oregon Medical Practice Act which specify and prohibit unprofessional conduct and repeated negligence. The Board and the physician entered into a Stipulated Order in which the physician was reprimanded and fined \$2,500. In addition, the physician was prohibited from performing colonoscopies, including sigmoidoscopies and/or upper gastrointestinal endoscopic procedures, without first completing training in endoscopic procedures. According to the Stipulated Order, the training regimen was to be pre-approved by the BME Medical Director. ■

OREGON ADMINISTRATIVE RULES ADOPTED BY THE BOARD OF MEDICAL EXAMINERS

The Board at its June 10, 2004 and July 9, 2004 meetings adopted the following Oregon Administrative Rules (OAR):

June 10, 2004 TEMPORARY RULES

OAR 847-035-0030, Emergency Medical Technician (EMT) Scope of Practice – These rules allow EMTs-Basic to administer atropine sulfate and pralidoxime chloride in the event of a chemical release, under the direct order by their supervising physician, or under the direction of an EMT-Paramedic, who is on the scene.

July 9, 2004 MD / DO

OAR 847-001-0000, Notice of Proposed Rule; OAR 847-001-0005, Model Rules of Procedure; OAR 847-001-0015, Delegation of Authority; OAR 847-001-0020, Discovery; OAR 847-001-0025, Motion for Ruling on Legal Issues (Summary Judgment) – The adopted administrative rules update the Board's rules based on the recent adoption of the Model Rules of Procedure for Contested Cases by the Oregon Department of Justice. New rules are being added pertaining to discovery and seeking rulings for summary judgment.

OAR 847-008-0005, Registration Period; OAR 847-008-0015, Active Registration; OAR 847-008-0022, Teleradiology; OAR 847-008-0040, Process of Registration; OAR 847-008-0045, Failure to Apply for Registration; OAR 847-008-0055, Reactivation from *Locum Tenens/Inactive/Emeritus* to *Active/Locum Tenens* Status – The follow rules changes: 1) Change the registration period for podiatric physicians to the same biennial period as for MDs, DOs and physician assistants; 2) Allow physicians practicing teleradiology to request active status even though they are practicing out-of-state; 3) Require the license renewal form to be received in the Board office by the end of the last business day in the biennium; and 4) List all the license statuses that licensees must reactivate if they wish to return to Oregon to practice.

OAR 847-020-0130, Basic Requirements for Licensure of a Foreign Medical School Graduate; OAR 847-020-0170, Written Examination, Special Purpose Examination (SPEX) and Personal Interview – The adopted rules require that graduates of medical schools not accredited by the Liaison Committee on Medical Education (LCME) or the Committee on Accreditation of the Canadian Medical Schools of the Canadian Medical Association must have completed all courses by physical on-site attendance. The rules also add an examination combination accepted by the Board if completed prior to the year 2000, a combination that was inadvertently left out in a previous OAR revision. The rule change also updates the language referring to the different physician (MD/DO) national certification examinations to be consistent with past rules changes.

DPM

OAR 847-080-0010, Requirements for Licensure; OAR 847-080-0019, Registration and Continuing Medical Education Requirements – The adopted rules add Part III of the National Board of Podiatric Medical Examiners (NBPME) examination to the examination sequence required for licensure of a podiatric physician in Oregon, and move the podiatric physicians into the same renewal period as MDs, DOs and physician assistants – January 1 to December 31 of every odd-numbered year (2005, 2007). ■



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.

Issues in Monitoring Long-Term Anticoagulation *(continued from page 3)*

over dosing.

A marked over-treatment is frequently associated with major hemorrhage, whereas under-treatment may be associated with failure to prevent emboli or recurrent disease. Initial management requires daily PT measurement with slowly increasing intervals as the INR becomes stabilized. Prolonging this interval beyond four weeks, even in apparently stable individuals, is risky. More frequent monitoring should be done when other medications are added, subtracted or changed in dose. Changes in the patient's general condition and changes in other disease processes in that patient should also warrant a check on the INR.

A number of alternative medicines and supplements have been known to cause changes in the INR in patients on long-term anticoagulation. St. John's wort, ginseng and garlic will lower the INR. Ginkgo has been associated with a rising INR and bleeding

when used with vitamin K antagonists. Therefore, keeping track of alternative substances your patient is using is important.² Changes in dose brought about by monitoring require frequent or even daily PT studies until stabilization of the INR is again accomplished.

Finally, it is important to monitor patient compliance in obtaining appropriate PT studies on schedule.

-
1. Ansell J, Hirsh J et al. *Managing Oral Anticoagulant Therapy*. *Chest* 2001;119:22S http://www.chestjournal.org/cgi/content/full/119/1_suppl/22S
 2. Schulman S. *Care of Patients Receiving Long-Term Anticoagulant Therapy*. *N Engl J Med* 2003 349:675
 3. Ginsberg JS, Fates SM. *Treatment of Deep-Vein Thrombosis*. *N Engl J Med* 2004;351:268-277 ■

The BME Website: Your Daily Source of Information!



- **Board Licensees:** License status, specialty, educational background
- **Board Actions**
- **Adopted and Proposed Oregon Administrative Rules**
- **Board and Committees:** Members, Meeting Calendar
- **License Application Packets and Information**

... and more!

www.bme.state.or.us



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.

REGRETS OR APOLOGIES NOT ADMISSIONS OF LIABILITY

The Oregon Legislature last year adopted a new law stating that in any civil action against a BME licensee, any expression of regret or guilt by the licensee or his/her representative does not mean the licensee is admitting liability.

The new law further states that the licensee or representative who makes such an expression of regret or guilt cannot be examined by deposition or otherwise, in any civil or administrative proceeding of any kind, regarding any such expression.

However, the new law does not apply to any civil action in which a judgment was entered in a Circuit Court register before June 16, 2003 – the effective date of the new law. Likewise, it does not apply to any administrative proceeding in which a final order was entered before that date.

This new law was passed by the 2003 Legislature as House Bill 3361, introduced at the request of the Oregon Medical Association. ■