



Inside:

*Sterilization,
Consent and the
Law*

Licensing Statistics

Board Actions

*License Renewal
Underway for
Acupuncturists,
Podiatrists*



From the Executive Director

Sub-Disciplinary Actions Can Be Win-Win Propositions For Patients and Licensees

By Kathleen Haley, J.D.

There is a perception among some members of the public, and in the community of healthcare professionals, that the BME's most common response to the need for actions regarding physician misconduct or error is to revoke licenses.

The BME has and will continue to suspend or revoke physician licenses when it deems such action necessary to preserve public health and safety. The Board takes about 50 formal actions each year against physicians resulting in licensure limitations or terms of probation, and may revoke a license in serious cases. At any given time, the Board has 140 physicians under some form of limitation or probation.

But the BME prefers to take a proactive approach. It prefers to see honest, competent physicians returned to practice through sub-disciplinary means that restore productive practices and protect patients. There are several possible nondisciplinary actions which may be taken.

Alternatives to Discipline

Prior to Board action, there are occasions when a Board investigation reveals that a licensee may lack current training or suffers from diminished capacity to safely practice and that it is impractical for the licensee to undergo remedial training. In such cases, the licensee may be encouraged to surrender his or her license – an action which can be taken

as retirement, if taken while an investigation is underway. This is offered to physicians who are late in their careers and no longer wish to practice or contest the charges.

The Board can also issue a letter of concern regarding the licensee's practice and/or behavior. This is a confidential document, written by the BME Medical Director to outline areas of concern uncovered by an investigation.

And the Board can refer the licensee to additional training in a number of possible problem areas: patient or peer relations, prescribing, sexual or other personal "boundary issues," etc. This is known as remediation, and is a frequent, positive step that has yielded good results in a number of cases. The Board works with organizations or institutes such as the Oregon Medical Association's PEER program, both in Oregon and outside the state, to provide remediation services for licensees whose conduct may not necessarily violate the Oregon Medical Practice Act but raises questions in regard to their judgment and training.

Remediation: PreP, GMEC, Peer Review

One key remediation partner is the Practitioner Remediation and Enhancement Partnership, better known as PreP 4 Patient Safety. PreP 4 Patient Safety is designed to protect the public by early identification, assessment, intervention and monitoring of licensed

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

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

MARCIA G. DARM, M.D.
Portland

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

KATHLEEN HALEY, J.D., Executive Director

PHILIP F. PARSHLEY, 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

Sub-Disciplinary Actions... (continued from page 1)

physicians and physician assistants who may have clinical skill or knowledge problems, or may have committed errors which warrant attention or termination by the participating hospital or healthcare system – but do not rise to the level of Board disciplinary action.

The BME works with certain hospitals and health care providers to implement the PreP 4 Patient Safety program by consulting with the providers whenever a physician or physician assistant's competence or clinical skills are called into question. The BME and the institutions involved seek to determine whether the licensee is eligible for PreP 4 Patient Safety participation. If they are deemed ineligible, the BME takes the usual investigative and disciplinary measures.

Licensees who are eligible for PreP 4 Patient Safety consult with their healthcare institutions to provide adequate assessment and develop appropriate remedial intervention and monitoring plans. The BME is a signatory to written participation agreements between it, the institution and the licensee.

The BME has cooperative agreements with all of the state's residency programs, for the purpose of notifying the Board of residents who are having difficulties in training. This is an anonymous reporting system. The BME contracts with Graduate Medical Education offices at the partnering institutions to share information and work cooperatively in enforcing federal and state medical practice regulations.

Participating Graduate Medical Education programs are required to report to the BME twice each year, providing data about the status of residents in each of its programs. This report is due on May 31 and November 30 of each year. Residents are reported to the Board by name if they are unsuccessful in probation, terminated, dismissed or suspended, or if their contracts are not renewed due to actions that would constitute violations of the Medical Practice Act. The status of other residents is reported to the BME, but those residents are identified only by numbers, with recognition that the licensees are in a learning phase of their careers.

BME representatives and participating Graduate Medical Education offices meet as needed to evaluate reports, educational activities and other aspects of the agreements, toward meeting the goal of safeguarding and protecting Oregonians from harm.

Peer review is an important tool, which assists hospitals and healthcare systems with a formal process of reviewing and correcting errors in physicians' practices. When requested, the Board appoints physicians to a peer review panel, and contracts with hospitals or healthcare systems to create terms and procedures for the peer review. If necessary, the Board appoints and facilitates a physician hearings panel to determine whether a licensee's hospital privileges should be discontinued. The Board's involvement in peer review ends at this point.

Board Orders: Corrective as well as disciplinary

The Board may issue certain orders falling in the "sub-disciplinary" category, to compel positive actions by licensees toward the safe practice of medicine or acupuncture. The most common is the Corrective Action Order, in which the Board and the licensee enter a formal non-disciplinary order designed to modify, monitor and/or otherwise correct an identified problem. Corrective Action Orders are not reportable to the National Practitioner Databank (NPDB), but are public orders.

From time to time, the Board may issue Orders for Evaluation. These are orders for psychiatric, psychological, behavioral or competency evaluations, designed to learn the causes of negative behaviors or poor medical practice and work toward correcting them. The Board does not release Orders for Evaluation to the media or public, does not post them on its Website or in this newsletter. In the official minutes of Board meetings, which are public records, licensees who are the subjects of such orders are identified by case number only.

In 2003, the Board's legal counsel determined that releasing Orders for Evaluation to the public is inconsistent with confidentiality guidelines. As a result, the Board no longer places Orders for Evaluation on the Website or in this newsletter. Publicly releasing an Order for Evaluation would be, in effect, releasing investigative information prior to issuance of a Final Order, according to legal counsel's interpretation of the pertinent statute.

Pro-active rather than re-active

As you may deduce from the BME's repertoire of sub-disciplinary measures, the BME prefers a pro-active stance regarding licensee correction and patient safety. The Board last year took another pro-active step by obtaining legislation specifying reporting requirements for individual licensees, hospitals and health-care systems.

The bill specifies a period of 10 working days within which BME licensees, health-care facilities and certain professional associations must report official actions, incidents or events regarding licensee misconduct, impairment or incompetence to the BME. And a key portion of the new reporting law requires licensees to self report such misconduct, impairment or incompetence, also within 10 working days. In advancing the proposal (House Bill 2165) through the Legislature, the BME pointed out that state law did not prescribe a timeframe for such reporting, and emphasized that such reporting constitutes an important proactive measure toward protecting Oregonians.

Protecting the public, is, after all, the mission of the Board of Medical Examiners. But protection doesn't always equal discipline – it can be a positive step toward healthier patients and their healthcare providers. Most often, at the sub-disciplinary level, everyone wins. ■

STERILIZATION, CONSENT AND THE LAW

By Bob Joondeph, J.D.

Executive Director, Oregon Advocacy Center

December 2, 2002: The scene in the Governor's ceremonial office at the Capitol was both somber and hopeful. Then-Gov. John A. Kitzhaber, M.D. appeared before a large group of disability advocates, to apologize on behalf of the state to the more than 2,600 Oregonians who underwent forced sterilizations during the 60 years in which the practice was permitted.

Kitzhaber noted that between 1900 and 1925, Oregon was one of 33 states that enacted laws to provide forced sterilization. Most of those sterilized in Oregon were patients in state-run institutions, including people with mental and developmental disabilities, criminals and sexual minorities. Some were children. Oregon's eugenics policy called for the forced sterilization of those considered "unfit," in an effort to breed better humans. It ended in 1983 with the abolishment of the Board of Social Protection.

Despite the national publicity that accompanied this event, many citizens remain unaware that Oregon has a law governing involuntary sterilization. It was enacted in 1983 to assure that adults with disabilities are not unnecessarily sterilized. It also prohibits the sterilization of children younger than 15, and mandates that a parent, guardian or conservator may not give consent for sterilization of a minor child or protected person. The law allows a person who is 15 or older to consent to be sterilized. But if a person is not capable of giving "informed consent," sterilization cannot proceed until age 18, and then only in limited circumstances as determined by court order.

Frequently Asked Questions: Oregon's Involuntary Sterilization Law

What sterilizations are covered by Oregon's law?

State law defines sterilization as "any medical procedure, treatment or operation for the purpose of rendering an individual permanently incapable of procreating." The law requires that sterilization be performed using the least intrusive method that conforms to standard medical practices. Hysterectomies that are "performed solely for the purpose of sterilization or for the purpose of hygiene and sanitary care of a female's menses" are prohibited. Surgical procedures that are necessary for other medical reasons but may result in sterilization are not governed by this law.

What steps can be taken to pursue sterilization of a person who may be incapable of giving consent?

A petition may be filed in state court asking for a determination regarding a proposed sterilization. The petition may be filed by the person seeking sterilization, the attending physician, or anyone concerned with the health and well-being of the person.

What happens after the petition is filed?

The court will schedule a hearing within 30 days. At least 14 days before the hearing date, the petition and hearing notice must be served on the person for whom sterilization is sought, the person's parents, spouse, legal guardian or conservator, the Oregon Advocacy Center (OAC) and others whom the court determines. The court must appoint an attorney for the person upon request or seeming incapacity to request.

What happens at the hearing?

The first step of the hearing is to decide whether the person is capable of giving informed consent for sterilization. The petitioner must present evidence including reports by a team of at least three professionals containing information about the person's ability to give consent. The person must testify, and may present evidence and cross-examine witnesses. The judge then determines whether the petitioner has proven, by clear and convincing evidence, that the person is incapable of giving informed consent.

What happens if the judge determines that the person is capable of deciding?

If the person consents to sterilization, the court will issue an order permitting it. A hospital and doctor must still obtain written consent prior to the sterilization. If the person refuses sterilization, the court will issue an order forbidding it. If the person later consents, sterilization is not permitted without a rehearing.

What happens if the judge determines that the person is not capable of deciding?

If the person is 18 or older, a second step of the hearing goes forward to determine if sterilization is in the person's "best interest."

How does a judge determine a person's "best interest?"

To determine that sterilization is in a person's best

(continued on page 11)

LICENSING STATISTICS BY TYPE AND STATUS

As of March 4, 2004

PROFESSION	ACTIVE (Permanent)	INACTIVE	EMERITUS	EMERITUS INACTIVE	LOCUM TENENS	LIMITED LICENSE	TOTAL
Medical (MD)	8,579	1,626	506	67	228	577	11,583
Osteopathy (DO)	486	98	14	5	20	20	643
Acupuncture (LAc)	545	49	0	0	6	47	647
Podiatry (DPM)	135	27	1	1	1	9	174
Physician Assistant (PA)	513	45	0	0	0	16	574
TOTALS	10,258	1,845	521	73	255	669	13,621

LICENSING STATISTICS BY OREGON COUNTY MDs and DOs (ACTIVE ONLY)

As of March 4, 2004

COUNTY (Seat)	MDs	DOs
BAKER (Baker City)	19	4
BENTON (Corvallis)	194	14
CLACKAMAS (Oregon City)	630	66
CLATSOP (Astoria)	55	2
COLUMBIA (St. Helens)	16	1
COOS (Coquille)	126	4
CROOK (Prineville)	14	4
CURRY (Gold Beach)	26	5
DESCHUTES (Bend)	312	16
DOUGLAS (Roseburg)	176	22
GILLIAM (Condon)	0	0
GRANT (Canyon City)	4	1

(continued on page 5)

Licensing Statistics By Oregon County (continued from page 4)

HARNEY (Burns)	6	0
HOOD RIVER (Hood River)	54	0
JEFFERSON (Madras)	13	1
JACKSON (Medford)	431	34
JOSEPHINE (Grants Pass)	113	15
KLAMATH (Klamath Falls)	125	5
LINCOLN (Newport)	56	9
LINN (Albany)	130	6
LAKE (Lakeview)	8	1
LANE (Eugene)	719	25
MALHEUR (Vale)	58	5
MORROW (Heppner)	5	0
MARION (Salem)	554	20
MULTNOMAH (Portland)	3,563	147
POLK (Dallas)	28	9
SHERMAN (Moro)	1	0
TILLAMOOK (Tillamook)	27	1
UMATILLA (Pendleton)	95	15
UNION (La Grande)	46	2
WASHINGTON (Hillsboro)	871	31
WALLOWA (Enterprise)	7	1
WASCO (The Dalles)	54	5
WHEELER (Fossil)	0	0
YAMHILL (McMinnville)	122	7
NONE / NOT APPLICABLE	500	28

LICENSING STATISTICS BY SPECIALTY WILL APPEAR IN THE SUMMER 2004 ISSUE.

OREGON ADMINISTRATIVE RULES ADOPTED BY THE BOARD OF MEDICAL EXAMINERS

The Board at its Dec. 4, 2003 (conference call), January and April 2004 meetings adopted the following Oregon Administrative Rules (OAR):

Dec. 4, 2003

OAR 847-008-0050, Reinstatement of License Lapsed Due to Non-Renewal – The adopted rule changes the current process of backdating, to the beginning of the biennium, the effective date a license is reinstated or reactivated. The new process will show the effective date of license reinstatement or reactivation as being the date the renewal form or Affidavit of Reactivation, and all fees, were received in the BME office and processed.

January 2004

OARs 847-008-0015, 847-008-0055; Reactivation from *Locum Tenens* / Inactive / Emeritus to Active / *Locum Tenens* status – The adopted rule change in OAR 847-008-0015 allows for alternative documentation of evidence of Oregon as the state of residence for physicians who request Active-Military status and who do not have an Oregon address to provide to the BME.

The adopted rule change in OAR 847-008-0055 shortens the reactivation process and waives the reactivation fee for physicians with Active-Military status returning to private practice after being called up to active duty in the armed forces.

OAR 847-012-0000, Patient Access to Physician Medical Records – The adopted language updates OARs regarding patient access to physician medical records, based on language in House Bill (HB) 2305, adopted by the 2003 Legislature. The adopted language also updates OARs as necessitated by the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.

OAR 847-020-0017, Written Examination, Special Purpose Examination (SPEX) and Personal Interview; OAR 847-020-0018, Endorsement or Reciprocity, SPEX, Personal Interview – The adopted rules add the National Board of Osteopathic Medical Examiners (NBOME) examination to the section of the rules covering the various medical-licensing examinations that have been, and are currently, required for licensure.

The adopted rules add language specifying when an applicant may request a waiver of the seven-year requirement for passage of the United States Medical Licensing Examination (USMLE) or the NBOME examination, and adds Jan. 16, 2003 as the effective date the Board adopted rules specifying the number of attempts allowed on each Step of the USMLE and NBOME in order to be eligible for licensure.

The adopted rules create a waiver from the requirement that applicants must have passed the combined licensing examination (National Board of Medical Examiners [NBME], Federation Licensing Examination [FLEX] and USMLE) by the year 2000. This waiver applies only to applicants who have participated in a combined MD/DO/PhD program.

OAR 847-035-0030, Emergency Medical Technicians (EMT Scope of Practice – The adopted rule deletes the requirement that EMTs-Basic complete a course approved by the Emergency Medical Services and Trauma Section, Office of Public Health Systems, Oregon Department of Human Resources (DHR), before using a dual lumen airway device in the practice of airway maintenance. The EMT-Basic may obtain training through his/her ambulance service or fire department, and training will be added to the EMT-Basic curriculum. Section-approved training in aspirin administration also was deleted, as current EMTs-Basic have obtained training, and didactic hours have been added to the EMT-Basic curriculum.

April 2004

OAR 847-010-0056, Limited License, Fellow; OAR 847-010-0063, Limited License, Medical Faculty; OAR 847-010-0073, Reporting Incompetent or Impaired Physicians to the Board – The adopted

(continued on page 7)

Oregon Administrative Rules *(continued from page 6)*

rules clarify that the paperwork for renewing a Limited License, Fellow should be submitted to the Board 30 days before expiring, and the current language on the Limited License, Medical Faculty in OAR 847-020-0140 “Limited License, Medical Faculty and Limited License, Visiting Professor” updates the language in OAR 847-010-0063. The change to OAR 847-010-0073 implements 2003 legislation requiring licensees to self-report to the Board within 10 working days any official action or event taken against the licensee by a government agency or health care facility, and defining medical incompetence, unprofessional conduct and licensee impairment.

OAR 847-015-0030, Written Notice Disclosing the Material Risks Associated with Prescribed or Administered Controlled Substances for the Treatment of “Intractable Pain” – The administrative rules are being adopted in response to 2003 legislation which eliminated the requirement for a consulting physician opinion in certain circumstances. The Board has developed and approved a material risk notice form for use by physicians when treating patients with intractable pain.

OAR 847-020-0170, Written Examination, SPEX Examination and Personal Interview – The adopted rules, effective April 23, 2004, allow applicants an unlimited number of attempts to pass the United States Medical Licensing Examination (USMLE) Steps 1 and 2 or the National Board of Osteopathic Medical Examiners (NBOME) examination Level 1 and 2. But the new rule language allows only three attempts to pass USMLE Step 3 and NBOME Level 3. After the third failed attempt, the applicant must complete a year of Board approved postgraduate training before taking USMLE Step 3 or NBOME Level 3 a fourth and final time. If USMLE Step 3 or NBOME Level 3 is failed a fourth time, the applicant is not eligible for licensure.

OAR 847-050-0041, Prescription Privileges – This rule change implements 2003 legislation allowing physician assistants to be granted prescribing privileges for Schedule II medications upon supervising physicians’ requests, approved by the Board. The PA must be certified by the National Commission on Certification of Physician Assistants (NCCPA) and must complete all required continuing medical education coursework.

OAR 847-070-0033, Visiting Acupuncturist Requirements – Adopted rules are similar to those for physicians who have expertise in a particular surgical procedure for which there is a need and an Oregon hospital willing to invite the physician to perform the operation. These rules will allow the Board to approve visiting licensed acupuncturists to demonstrate needling as a part of a seminar, conference or workshop sponsored by an Oregon school or program of acupuncture or oriental medicine.

TEMPORARY RULES – Approved by the Board on April 16, 2004

Because these rules were not filed with the Office of Legislative Counsel within the required 10 days of being filed with the Secretary of State in July 2002, they need to be refiled. In order to maintain these rules, the Board on April 16, 2004 approved temporary rules, which took effect that day. These rules still go through the regular process of First and Final reviews by the Board, for adoption within 180 days. The first review was at the April 15-16, 2004 Board meeting.

OAR 847-020-0130, Basic Requirements for Licensure of a Foreign Medical School Graduate – The adopted rules require that graduates of medical schools not accredited by the Liaison Committee on Medical Education 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.

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 on the scene. ■

BOARD ACTIONS – October 17, 2003 to April 30, 2004

**ASHBY, William E., MD08822;
Walla Walla, Wash.**

The Board issued a Default Final Order on January 15, 2004. The Board placed Licensee on five years of probation including a reprimand, fine, and quarterly Board reporting.

**BENSON, Joseph E., MD19051;
Bay City, Mich.**

Licensee entered into a Corrective Action Order with the Board on December 4, 2003. The terms of this Order include practice conditions when and if Licensee returns to practice in Oregon. Practice conditions relate to having a mentor to over-read specific types of slides for a minimum period of 12 months.

**CALHOUN, James M., MD17171;
Little Rock, Ark.**

Licensee entered into a Stipulated Order on January 15, 2004. In this Order, Licensee agreed to surrender his Oregon medical license while under investigation.

**DUBIN, David A., MD25083;
Portland, Ore.**

The Licensee entered into a Voluntary Limitation with the Board on April 15, 2004. In this Order, Licensee voluntarily limited his practice to occupational medicine, to include independent medical examinations. Licensee's practice sites must be pre-approved by the Board. Licensee must complete coursework in occupational medicine and have a practice mentor who shall submit quarterly reports to the Board.

**EKHOLM, Roberta A., DO12667;
Oregon City, Ore.**

Licensee entered into a Stipulated Order on December 12, 2003. The terms of this Order include: probation; reprimand; fine; 30-day suspension beginning December 12, 2003; no solo practice; maintain updated medical charts; Board-approved practice setting; on-site practice mentor; complete PEER; and maintain relationship with Board approved psychiatrist.

**FARRIS, Cathleen L., MD19029;
Camas, Wash.**

Licensee on April 1, 2004 signed an Interim Stipulated Order (ISO), in which she agreed to withdraw from practice pending the conclusion of

the Board's investigation into allegations of substance abuse and violation of a Board Order. The Licensee was found deceased on April 3, 2004. The Board approved the ISO to formally close the case on April 15, 2004.

**HUTSON, Daniel B., PA00697;
Corbett, Ore.**

Licensee entered into a Stipulated Order with the Board on December 4, 2003. In this Order, Licensee agreed to surrender his Oregon physician assistant license while under investigation. Licensee may not reapply for licensure for at least two years and then must demonstrate that he is of good moral character and has sufficiently rehabilitated himself to warrant restoration of his license.

**LAURY, Daniel H., MD17823;
Medford, Ore.**

Licensee entered into a Corrective Action Order on January 15, 2004. In this Order Licensee agreed to obtain Board approval prior to resuming the practice of obstetric medicine; work with a physician mentor; continue treatment with a mental health provider; maintain appropriate professional conduct; hysterectomy procedures to be reviewed; cross coverage by a physician.

**LEE, Anthony H., MD15438;
Beaverton, Ore.**

The Licensee entered into a Corrective Action Order with the Board on April 15, 2004. In this Order, Licensee agreed to complete coursework pre-approved by the Board regarding appropriate prescribing and pain management.

**LEE, Carol Frost, MD12002;
Bend, Ore.**

Licensee entered into a Corrective Action Order with the Board on April 14, 2004. In this Order Licensee agreed to complete coursework in internal medicine and practice with a practice monitor who will conduct monthly chart review for one year.

**LEIBOLD, Werner, MD11787;
Canyonville, Ore.**

Licensee entered into a Stipulated Order with the Board on November 7, 2003. The terms of this order include: reprimand; license suspension

Board Actions (continued from page 8)

beginning on December 1, 2003 and terminating when Licensee completes the Center for Personalized Education for Physicians (CPEP) program; compliance with CPEP recommendations; Licensee shall not use a third party to provide medical treatment; and annual physical and neuropsychological examinations.

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

The Board approved the emergency suspension of Licensee's Oregon medical license on March 4, 2004. The Board took this action based on its immediate concerns regarding the safety and welfare of Licensee's current and future patients.

**LIVINGSTON, Mark D., MD20675;
St. Helens, Ore.**

Licensee entered into a Corrective Action Order with the Board on April 15, 2004. In this Order Licensee agreed to keep his medical charts updated to include timely posting of lab reports, have a practice monitor who will meet with Licensee at least monthly to review Licensee's practice, including chart reviews.

**MEAD, Richard J., MD11683;
Salem, Ore.**

Licensee entered into a Stipulated Order with the Board on January 15, 2004. This Order placed Licensee on 10 years of probation with the following terms: reprimand; compliance with the practice and educational recommendations recommended by the Center for Personalized Education for Physicians (CPEP); quarterly Board reporting.

**NEILSON, John T., MD14328;
Astoria, Ore.**

Licensee entered into a Stipulated Order with the Board on April 15, 2004. In this Order, Licensee agreed to retire his Oregon medical license while under investigation regarding Board findings that Licensee engaged in unprofessional conduct, committed gross or repeated acts of negligence, and prescribed controlled substances without legitimate medical purpose.

**PRICE, Leonard A., MD14328;
Santa Barbara, Calif.**

The Board on April 15, 2004 issued a Final Order by Default which denied Applicant's application for Oregon medical licensure.

**SMITH, Randall J., DO15715;
Portland, Ore.**

Licensee entered into an Interim Stipulated Order with the Board on March 4, 2004. In this Order licensee agreed to withdraw from practice pending the conclusion of the Board's investigation regarding his competency to practice medicine.

**SNIDER, Robert W., MD24904;
Dannemora, N.Y.**

A Voluntary Limitation was approved on December 4, 2003. In this Order, the Board granted Applicant a license to practice medicine with the following limitation: Licensee may not prescribe or administer intravenous therapies other than in health care facilities licensed by the state of Oregon.

**STEVENSON, Ronald C., MD22232;
Bend, Ore.**

Licensee entered into a Voluntary Limitation with the Board on January 15, 2004. In this Order Licensee agreed to the following terms: Licensee will provide the Board with 14 days notice prior to beginning practice in Oregon; Licensee will offer a chaperone to all female patients over the age of 16.

**STONE, Kokoro Sensei Craig, AC00293;
Portland, Ore.**

Licensee entered into a Stipulated Order with the Board on March 4, 2004. In this Order he agreed to surrender his Oregon acupuncture license on March 31, 2004 at 5 p.m. Licensee also agreed to never reapply for an Oregon acupuncture license.

**VANPETT, Kasia, MD20623;
Eugene, Ore.**

Licensee entered into a Corrective Action Order with the Board on March 4, 2004. In this Order Licensee agreed to obtain CME related to endoscopic carpal tunnel surgery. Licensee must successfully perform 10 endoscopic carpal tunnel surgeries under the supervision of a mentor before she can perform them solo.

**WONDERLICK, Eugene L., MD06763;
Gualala, Calif.**

Via his court appointed conservator, Licensee entered into a Stipulated Order with the Board on January 15, 2004. In this Order, Licensee agreed to surrender his Oregon medical license while under investigation.

BME Investigative and Disciplinary Statistics – 2001 through 2003

COMPLAINTS AND INVESTIGATIONS, 2001 - 2003							
<i>Complaints Received</i>		<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>Sources of Complaints</i>		<i>2001</i> <i>2002</i> <i>2003</i>
Total Phone Calls		3,759	4,051	2,957	Insurance Company		13 2 11
Total Complaint Calls		1,545	1,618	n/a	Patient or Associate		277 190 365
Total E-Mail Inquiries		262	180	210	Pharmacy		9 8 9
Total Written Complaints		662	637	639	Other Providers		19 32 53
					Other		31 29 32
					Self		3 3 6
<i>Open/Closed Complaints</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>		Hospital or Institution		11 15 21
Complaints Opened		420	328	580	Other Board		3 1 10
Average Complaints Open		229	229	255	Malpractice Review		41 42 53
Complaints Closed		383	380	562	Compliance		n/a 1 1
					Board of Medical Examiners		38 27 49
<i>Investigative Committee</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>		<i>Categories of Complaints</i>		
<i>Interviews Held</i>		75	59	70	Inappropriate Care/	<i>2001</i>	<i>2002</i> <i>2003</i>
					Incompetence		274 210 335
<i>Contested Case Hearings</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>		Inappropriate Prescribing		56 31 45
<i>Held</i>		2	1	2	Personal Substance Abuse		12 6 16
					Unprofessional Conduct		58 66 185
					Mental Illness/Impaired		6 8 12
					Violation of State/Federal		
					Statutes		12 9 24
					Violation of Probation		2 3 2
					Other/Miscellaneous		29 22 96
					Sexual Misconduct		9 9 18
					Compliance		n/a 1 1
FINAL DISPOSITIONS OF CLOSED CASES					2001	2002	2003
No Violation	No apparent violation of Medical Practice Act				38	10	147
	No apparent violation/preliminary investigation				13	21	31
	No Violation/Prior to Committee Appearance				192	235	235
	No Violation/Post Committee Appearance				16	8	17
	Letter of Concern/Prior to Committee Appearance				62	47	60
	Letter of Concern/Post Committee Appearance				11	9	18
Public Order	Corrective Action Order				16	10	10
	Stipulated Order **				23	37	36
	Voluntary Limitation **				1	1	4
	Final Order **				11	1	3
Totals	TOTAL CASES CLOSED				383	379	562
	CASES CLOSED WITH PUBLIC ORDERS				51	49	53
	(Nat'l Database) TOTAL REPORTABLE ORDERS				35	39	43
	PERCENTAGE REPORTABLE BOARD ACTIONS				9.1	10	7.65
TERMS OF PUBLIC ORDERS					2001	2002	2003
	Refer to Remedial Program				13	22	28
	Revocation				4	0	1
	Revocation with Stay				9	3	2
	Surrender License				2	0	4
	Retire/Surrender Under Investigation				6	5	2
	Probation				13	15	17
	Suspension				1	7	3
	Reprimand				12	17	21
	Denial of License				1	2	0
	Assessment of Fine				9	10	12
	Assessment of Costs				1	0	0
	Accept Retirement				0	0	3
	State Court of Appeals				0	0	0

*** Public orders reportable to the National Database

Sterilization, Consent and the Law (continued from page 3)

interest, a judge must find that there is clear and convincing evidence that each of the following five factors is true:

- The person is physically capable of procreating;
- The person is likely to engage in sexual activity at present or in the near future under circumstances likely to result in pregnancy;
- All less drastic alternative contraceptive methods, including supervision, education and training, have proved unworkable or inapplicable, or are medically contraindicated;
- The method of sterilization to be used conforms to standard medical practice, is the least intrusive method available and appropriate, and does not create an unreasonable risk to the life and health of the person.
- Due to the nature and extent of disability, the person is permanently incapable of caring for and raising a child, even with reasonable assistance.

What happens if sterilization is found not to be in the person's best interest?

The judge will issue an order prohibiting sterilization and give reasons for that decision.

What happens if sterilization is found to be in the person's best interest?

The judge will issue an order permitting sterilization and give reasons for that decision.

An understanding of this law and its origin is obviously useful for any physician who may be asked to sterilize a person with disabilities. Governor Kitzhaber's statement is an excellent touchstone for anyone faced with such a request: "The time has come to apologize for misdeeds that resulted from widespread misconceptions, ignorance and bigotry. It's the right thing to do, the just thing to do. The time has come to apologize for public policies that labeled people as 'defective' simply because they were ill, and declared them unworthy to have children of their own."

To find out more about Oregon's sterilization law, check out OAC's publication: A Guide to Oregon's Sterilization Law, at our web site:

www.oradvocacy.org. This article is a very brief summary of ORS 436.005 to 436.335. It should not be relied upon or used as a substitute for legal advice. ■

Bob Joondeph is Executive Director of Oregon Advocacy Center. He holds a J.D. from Case Western Reserve University and an A.B. from Brown University. He has practiced law in Oregon since 1976.



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.



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.

LICENSE RENEWAL UNDERWAY FOR ACUPUNCTURISTS, PODIATRISTS

License renewal has begun for acupuncturists and podiatrists.

Podiatrists have requested the same renewal schedule as MDs and DOs. Consequently, podiatrists' biennial renewal period has been shortened by six months and their renewal fees pro-rated. The podiatrists' renewal period ends on December 31, 2005 instead of June 30, 2006. Thereafter, their biennium will be the same as that of MDs and DOs.

The current acupuncture license renewal period will remain the same. Renewals are due to the BME office by June 30, 2004.

For more information, contact the BME Licensing section at (503) 229-5770. ■