

**Maine Board of Licensure in Medicine**  
**Jurisprudence Exam**  
**Study Guide**

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**NOTE: This study guide is designed to be used as an aide to assist the user in locating and understanding the various laws, rules, and policies that govern the practice of medicine in Maine. This study guide is not intended to be used as the sole information that an applicant or licensee needs to know or as a substitute for reading and understanding the applicable laws, rules, and policies of the Board. While the Board has sought to ensure that the study guide is consistent as possible with current laws, rules, and policies, there may be unintentional errors or omissions. To the extent that there are any inconsistencies between the contents of this study guide and the applicable laws, rules, and policies, the latter are controlling.**

## **I. Board of Licensure in Medicine**

### **Board Mission and Powers**

"For the Protection of the Health, Safety and Welfare of the Public."

The Board of Licensure in Medicine is one of many occupational and professional licensing boards in the State of Maine. The Board is one of several state agencies that are responsible for protecting the health and safety of the public by licensing and regulating health care providers. Examples of other state agencies include: The Board of Osteopathic Licensure; The Board of Nursing; The Board of Complementary Healthcare; The Board of Dental Examiners; and The Board of Pharmacy.

The Board of Licensure in Medicine licenses and regulates physicians who are graduates of medical schools and received the degree of *Medicinae Doctor* ("M.D."). It also licenses and regulates physician assistants who render medical services under physician supervision. The primary powers of the Board include the authority to hold hearings, adopt rules, establish standards and procedures, issue licenses and initiate action for the revocation or suspension of occupational or professional licenses.

The members of the Board are appointed by the Governor. The Board is composed of 6 physicians, 3 non-physician representatives of the public, and 1 physician assistant. All members must have been Maine residents for at least five years at the time of their appointment and the physician/physician assistant members must have been licensed and actively practicing medicine in the state.

The Board employs its own administrative and investigative staff and is provided with legal counsel and additional investigative staff by the Maine Office of Attorney General.

### **Mission Statement**

The mission of the Board of Licensure in Medicine is to safeguard the health, welfare, safety and lives, of the people of Maine by ensuring that the public is served by competent, ethical and honest practitioners. To accomplish this, the Board will:

- License only qualified medical doctors and physician assistants.
- Monitor the practice of medicine to insure the integrity of the profession and to maintain high professional standards and conduct.
- Provide the public a forum to have complaints heard and impartially investigated.
- Discipline and sanction licensees who violate the standards of conduct or whose performance is below minimum acceptable standards of proficiency.
- Undertake special projects, often in collaboration with other interested groups, that both enhance the profession and meet public needs.

## **II. Board Laws, Rules, and Policies**

### **Maine Laws**

The Board is governed by several different titles and sections (§§) of the Maine Revised Statutes Annotated (M.R.S.A.). Below is a list of the different titles and sections and how they affect the Board.

Title 32 M.R.S.A. §§3263 - 3300 Board of Licensure in Medicine can be found at <http://legislature.maine.gov/statutes/32/title32ch48sec0.html>. This Title and sections includes the Board make-up, licensing criteria, disciplinary processes, and other general provisions.

Title 5 M.R.S.A. §§8001-10005. The Maine Administrative Procedures Act can be found online at <http://legislature.maine.gov/statutes/5/title5ch375sec0.html>. This Title and sections provides authority for rulemaking, advisory rulings and adjudicatory proceedings.

Title 10 M.R.S.A. §8003-A Complaint Investigations. Can be found at <http://legislature.maine.gov/statutes/10/title10sec8003-A.html>. This Title and section gives the Board authority to issue investigative subpoenas.

Title 10 M.R.S.A. §8003(5). Can be found at <http://legislature.maine.gov/statutes/10/title10sec8003.html>. This Title and section includes additional disciplinary and non-disciplinary options available to the Board (including letters of guidance).

Title 22 M.R.S.A. §1711 (including subparagraphs A- C) Medical Records. Can be found at <http://legislature.maine.gov/statutes/22/title22sec1711.html>. This Title and sections includes patient access to medical records and fees that can be charged.

Title 24 M.R.S.A. §§2501-2511 Maine Health Security Act. Can be found at <http://www.mainelegislature.org/legis/statutes/24/title24ch21sec0-1.html>. This Title and sections includes who must make mandated reports to the Board and what situations require a mandated report.

## **Board Rules**

The Board currently has five (5) rules. Official copies of the rules can be found by scrolling down to section 02 373 at <http://www.maine.gov/sos/cec/rules/02/chaps02.htm>. The 5 rules are:

**Chapter 1 – Rules and Regulations for Physician Licensing.** Chapter 1 clarifies the statute for licensure and describes the requirements established by the Board for licensing and renewing licenses of medical doctors.

**Chapter 2 – Physician Assistants.** Chapter 2 clarifies the statute for licensure of, and supervision of physician assistants. Chapter 2 also establishes a Physician Assistant Advisory Committee.

**Chapter 4 – Rules for the Issuance of Citations.** Chapter 4 lists the violations for which a citation and administrative fine may be issued, describes the licensee's right to request a hearing, and describes the time and manner in which the fine must be paid. The rule also specifies the Board may issue a complaint charging unprofessional conduct and states that administrative fines are not reportable to any databanks.

**Chapter 10 – Sexual Misconduct.** Chapter 10 defines sexual misconduct by physicians and physician assistants and establishes a range of sanctions applicable to violations of this rule pursuant to Title 32 § 3269 (7) and 3270-A, B, C., and 32 M.R.S.A. § 2562, 2594-C. In short, sexual misconduct with a patient is a violation whether it happens inside or outside the office. The Board breaks sexual misconduct into two categories: sexual violation and sexual impropriety. "Sexual violation" is any conduct by a physician/physician assistant with a patient that is sexual or may be reasonably interpreted as sexual, even when initiated by or consented to by a patient. "Sexual impropriety" is behavior, gestures, or expressions by the physician/physician assistant that is seductive, sexually suggestive, or sexually demeaning to a patient and includes examining the patient without verbal or written consent.

**Chapter 21 – Use of Controlled Substances for the Treatment of Pain.** Chapter 21 is a joint rule of the Board of Osteopathic Licensure, the Board of Licensure in Medicine, the Board of Dental Examiners, the Board of Nursing and the Board of Podiatric Medicine that establishes guidelines, including record-keeping and monitoring, regarding the use of controlled substances for the treatment of pain. These guidelines are intended to ensure that physicians and physician assistants are appropriately documenting and monitoring patients being treated with controlled drugs. The guidelines, in conjunction with the use of the Prescription Monitoring Program (PMP), also help to prevent the misuse and diversion of controlled drugs.

### **Board Guidelines/Policies**

The Board also has policies, guidelines, and advisory rulings which can be found on its website [www.maine.gov/md](http://www.maine.gov/md)

### **AMA Code of Medical Ethics**

It is the policy of the Board of Licensure in Medicine that the American Medical Association’s Code of Medical Ethics, most recent edition of Current Opinions with Annotations, is one of the primary sources in defining ethical physician and physician assistant behavior. This means that even if you are not a member of the AMA, the Code of Medical Ethics will be applied to your conduct.

This does not apply only to your behavior. The Board maintains that you are responsible, whether employed by you or not, for the staff in your office. Just as the Board will investigate complaints against you for rudeness or outbursts of anger, it will also investigate complaints against you based on staff rudeness or outbursts. The Board does not consider stress, or lack of sleep as excuses for rude behavior.

Licensees need to be aware there is an imbalance of power in their relationship with a patient. This means that patients can feel pressured into doing things they might not do in other circumstances. For example, patients might feel they have to buy items that are on sale at the office, donate to a charity or cause supported at the office, or support a political cause (sign petitions), if they are going to continue to receive care from the licensee. Although the intention may be good on the part of the licensee it is important to remember that it is the patient’s perception and the influence created that matters.

Additional information can be found at <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics.page>

## **III. Licensing**

### **A. Physicians**

#### **1. Types of Licenses**

The Board issues 7 different types of physician licenses. Each one is denoted by a different prefix before the license number. The 7 different licenses are:

1. Prefix AL = **Administrative License** - This license is for Medical Doctors who do not engage in any clinical patient practice.
2. Prefix CP = **Camp Physician License** - This is valid only for a specific time and place during the summer.

3. Prefix EC = **Educational Certificate** - This is for physicians who are in ACGME approved postgraduate training (residency). It is valid only at the hospital administering the residency.
4. Prefix EL = **Emergency License** - This is an EMERGENCY LICENSE, NOT TO EXCEED 100 DAYS, Pursuant to 32 M.R.S.A. § 3278.
5. Prefix MD = **Medical Doctor permanent license. A permanent license may either be “active” or “inactive.” If the license is “inactive” the licensee may not practice medicine in the State of Maine.**
6. Prefix MDV = **Medical Doctor Volunteer permanent license.** For MDs working only on a volunteer basis at clinics for the indigent.
7. Prefix TD = **Temporary Doctor License** - This is a temporary license granted for the time specified, but not to exceed one year.

## 2. Requirements for Physician Licensure

### a. U.S.A. OR CANADIAN MEDICAL GRADUATES

1. **Graduate from an accredited U.S. or Canadian medical school.**
2. **Postgraduate training (You must satisfy at least one of these categories):**
  - a) If you graduated on or after January 1, 1970 but before July 1, 2004 you must have satisfactorily completed at least 24 months in a graduate educational program accredited by the Accreditation Council on Graduate Medical Education (ACGME), the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. If you graduated after July 1, 2004 you must have satisfactorily completed 36 months of approved postgraduate training.
  - b) If you graduated before January 1, 1970 you must have satisfactorily completed at least 12 months in a graduate educational program accredited by the ACGME, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada.
  - c) Has satisfactorily graduated from a combined postgraduate training program in which each of the contributing programs is accredited by the ACGME and is eligible for accreditation by the American Board of Medical Specialties (ABMS) in both specialties.
  - d) Is board certified by the ABMS.
3. **Attain a passing score on one of the following examination sets:**
  - a) Each individual test of United States Medical Licensing Examination (USMLE), Federation Licensing Examination (FLEX), or National Board of Medical Examiners (NBME), separately or in an approved combination. There is a limit of three attempts for Step 3 and all exams must be completed within 7 years.
  - b) State Board examination deemed equivalent by the Board to (a) above.\*
  - c) Licentiate of the Medical Council of Canada (LMCC).\*
  - d) British Isles Credentialing - General Medical Council of United Kingdom, or Republic of Ireland, or Scotland.\*
4. **Undergo a background check to verify professional competence, ethics and character.**

5. **Achieve a passing score on a State of Maine examination administered by the Board.**
  6. **Complete and submit all applicable forms, fees, and documentation as required.** Please see page 5, Instructions for Completing the Application for License to Practice Medicine.
- \* SUBJECT TO BOARD APPROVAL

b. **INTERNATIONAL MEDICAL GRADUATES**

1. **Graduate from a school listed in the latest edition of the Educational Commission for Foreign Medical Graduates IMED list of medical schools.**
2. **Postgraduate training:** Satisfactorily completed at least 36 months in an internship/residency/fellowship program(s), which is accredited by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association, or the Royal Colleges of Physicians of England, Ireland, or Scotland, or has satisfactorily graduated from a combined postgraduate training program in which each of the contributing programs is accredited by the ACGME and is eligible for accreditation by the American Board Of Medical Specialties (ABMS) in both specialties, or is board certified by the ABMS. To apply for a waiver of postgraduate accreditation, see 32 MRSA, §3271,(6) at <http://janus.state.me.us/legis/statutes/32/title32sec3271.html>
3. **Provide acceptable evidence of one of the following:**
  - a) Educational Commission for Foreign Medical Graduates (ECFMG) examination certification.
  - b) Certification of Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS).
  - c) VISA Qualifying Examination (VQE) examination certification.
  - d) Successful completion of the Fifth Pathway program.
4. **Attain a passing score on one of the following examination sets:**
  - a) Each individual test of the United States Medical Licensing Examination (USMLE), the Federation Licensing Examination (FLEX), or the National Board of Medical Examiners (NBME), separately or in an approved combination. There is a limit of three attempts for Step 3 and all exams must be completed within seven years.
  - b) State Board examination deemed equivalent by the Board to (a) above.\*
  - c) Licentiate of the Medical Council of Canada (LMCC).\*
  - d) British Isles Credentialing - General Medical Council of the United Kingdom, or the Republic of Ireland.\*
5. **Undergo a background check to verify professional competence, ethics and character.**

6. **Achieve a passing score on a State of Maine examination administered by the Board.**
7. **Complete and submit all applicable forms, fees, and documentation as required.**  
\* SUBJECT TO BOARD APPROVAL

### **3. Physician License Renewals**

Licenses are renewed every two years based on birthdate. Renewals are due by the end of the month of a physician's birth on even years if he/she was born in an even numbered year, or odd years if the physician was born in an odd numbered year. In addition to submitting a timely renewal application, a physician must meet the CME requirements in order to keep his/her license in active status. If a physician has not met the CME requirements, he/she should provide the CME that have been completed, report the circumstances that caused him/her not to complete the requirements and request an extension. **A physician should not claim CME that is planned, but not completed.**

### **4. General Application Questions**

Applicants and licensees sometimes have questions about how to answer a question on an application and try to answer it in the most favorable way. Board Rule Chapter 4 describes the citations and fines the Board can issue in addition to instituting a complaint if a question is not answered correctly. **When in doubt, contact the Board staff and/or disclose.**

## **B. Physician Assistants.**

**Prior to rendering any medical services, a physician assistant must have BOTH a license and a certificate of registration issued by the Board.**

### **1. Requirements for Physician Assistant Licensure (License designation "PA")**

- a. Submit an application on forms approved by the Board.
- b. Pay the appropriate fee as determined by the Board.
- c. Demonstrate successful completion of an educational program for physician assistants or surgeon's assistants accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or the Commission for Accreditation of Allied Health Education Programs, or their successors.
- d. Provide proof of successful passage of the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants or its successor; and hold a current unconditioned certification by this organization at the time the license is issued.

- e. Have no license, certification or registration as a physician assistant or any other type or classification of health care provider under current discipline, revocation, suspension or probation for cause resulting from the applicant's practice as a physician assistant, and not be subject to any allegations which could form the basis of disciplinary action pending, unless the Board considers such condition and agrees to licensure.
- f. Pass an examination administered by the Board. If an applicant fails to attain a score of 75 on this examination, the applicant will be required to appear before a committee of the Board.

## **2. Requirements for Certificate of Registration**

- a. Obtain a physician assistant license.
- b. Submit an application for a certificate of registration, which includes a signed statement from the primary supervising physician agreeing to provide supervision.
- c. Comply with the requirements of Board rule Chapter 2 by creating a written Plan of Supervision that ensures that the supervising physician is delegating only those medical services that the physician assistant has competency to perform.
- d. Renew/update the registration, including appropriate fees, every two years along with the renewal of the PA license.

## **3. Physician Assistant Prescribing Authority**

If permitted pursuant to a written plan of supervision, a physician assistant may prescribe and dispense of all legend drugs, drugs in Schedules II through V, and medical devices to the extent permitted by state and federal law. **The rule was updated on July 18, 2016 to allow Schedule II prescribing without additional approval from the Board.**

## **4. Physician Assistant Supervision – Physician Requirements**

In order to supervise a physician assistant a physician must:

- a. Have an active, unrestricted, permanent, temporary or emergency license to practice medicine in this state;
- b. Submit a statement to the Board affirming that he/she will oversee and accept responsibility and legal liability for the medical activities delegated to the physician assistant; and

- c. Prepare and sign a written Plan of Supervision (POS) addressing the technical requirements of supervision (as set forth in Board rule Chapter 2), and maintain a copy of the POS at the Maine administrative office of the practice.
- d. Ensure that the physician assistant is competent to perform the medical services that the physician is delegating to the physician assistant.

### **5. Physician Assistant Renewals**

Licenses are renewed every two years based on birthdate. Renewals are due by the end of the month of a physician assistant's birth in even years if he/she was born in an even numbered year, or odd years if the physician assistant was born in an odd numbered year. In addition to submitting a timely renewal application, a physician must meet the CME requirements in order to keep his/her license in active status. If a physician assistant has not met the CME requirements, he/she should provide the CME that have been completed, report the circumstances that caused him/her not to complete the requirements and request an extension. **A physician assistant should not claim CME that is planned, but not completed.**

### **6. General Application Questions**

Applicants and licensees sometimes have questions about how to answer a question on an application and try to answer it in the most favorable way. Board Rule Chapter 4 describes the citations and fines the Board can issue in addition to instituting a complaint if a question is not answered correctly. **When in doubt, contact the Board staff and/or disclose.**

## **IV. Discipline**

### **A. Introduction**

The Board investigates roughly 200 complaints against its licensees each year. The majority of these complaints come from the public. Public complaints may come from patients, family members, advocates, or friends. Once the Board receives a complaint from a member of the public, it becomes the Board's investigation. The Board has the ability to continue the investigation even if the complainant withdraws the original complaint. In addition, the Board receives reports from other agencies, institutions, and licensees which it may pursue by initiating a complaint on its own motion.

Many of the complaints the Board receives each year include an element of communication. This can be a licensee's communication directly with a patient (e.g. "rudeness" or "untimely communication of test results"), with other professionals, or with the licensee's staff (e.g. "rudeness"). Many of the complaints arise from patients' frustration at not being able to interact directly with the licensee and the failure, real or perceived, that they are not kept informed of what is happening with their health.

## **B. Complaint Process**

Upon receipt of a complaint, the Board sends a copy of the complaint to the licensee. The licensee has 30 days to respond in writing. A copy of this response is provided to the complainant unless the Board is persuaded that providing the response could jeopardize the patient's health. The complaint, response, and investigative materials are generally reviewed about 4 weeks after receipt of the response. Based on its review, the Board determines if grounds for disciplinary action exist. If not, the complaint is dismissed or dismissed with a Letter of Guidance (LOG) (see outcomes). If yes, the complaint remains open pending further Board action, such as:

- **Further investigation:** Normally takes 3 to 9 months. The Board attempts to finish the investigation as quickly as possible.
- **Evaluation:** Pursuant to 32 M.R.S.A. §3286 and §3270-C (2) the Board has the ability to order a mental or physical examination of the licensee.
- **Informal Conference:** When the Board has questions after reviewing the complaint and the response, it may order an Informal Conference. This is a chance for the Board to have a discussion with both the complainant and the licensee. Physicians are welcome to have an attorney present, but the conference is informal and the Board expects to engage with the licensee, not the attorney.
- **Adjudicatory Hearing:** If the Board determines there may be grounds for discipline it may order an Adjudicatory Hearing. If an Adjudicatory Hearing is ordered, the Board strongly recommends that the licensee consult with an attorney.

## **C. Grounds for Discipline (include but not limited to):**

- Fraud & Deceit in Obtaining a License
- Habitual Substance Abuse
- Sexual Misconduct
- Incompetence or Unprofessional Conduct
- Conviction of a Crime
- Violation of Law, Rule, or Board Order
- Inappropriate Prescribing
- Disciplinary Action by Another State
- Failure to Report an Impaired Physician

## D. Complaint Outcomes

- **Dismissal.** The Board dismisses approximately 90% of the complaints it reviews each year. The majority of these are straight dismissals, but a percentage are dismissed with a Letter of Guidance.
- **Letters of Guidance.** These are issued when it is determined that there is evidence to support a complaint, but the evidence does not rise to a level where disciplinary sanctions are warranted. In the Letters of Guidance, the Board notes its concerns and offers recommendations for avoiding similar problems in the future. The letters are public and may remain in the licensee's file for up to ten years. These letters are not disciplinary and are not reported to the National Practitioner Databank (NPDB).
- **Disciplinary Action (Consent Agreements/Board Orders).** These include: warnings; reprimands; censures; fine(s); costs of hearing; additional education; probation with conditions; suspension; revocation or modification of license. All disciplinary actions are reportable to the National Practitioner Data Bank (NPDB) and the Federation of State Medical Boards (FSMB) In addition, it is the Board's policy to issue a press release with each discipline.

## V. Medical Malpractice

The Board is often asked if it can help its licensees with malpractice cases. It cannot. The Board has a very specific role in reviewing malpractice reports that is separate from the malpractice process.

The Board is statutorily mandated to review malpractice claims when it receives three notices of claims within a 10 year period. In addition, the Board reviews malpractice settlements with payouts over \$300,000. The Board has the ability to issue subpoenas and obtain medical records for the purpose of review. Following an initial review, the Board will determine if a complaint should be issued against the licensee.

## VI. Mandated Reporting for Professionals

Title 24 M.R.S.A. §2505 mandates that any physician or physician assistant licensed to practice or otherwise lawfully practicing within the State of Maine shall:

[R]eport the relevant facts to the appropriate board relating to the acts of any physician or physician assistant in this State if, in the opinion of the committee, physician, physician assistant or other person, the committee or individual **has reasonable knowledge of acts of the physician or physician assistant amounting to gross or repeated medical malpractice, misuse of alcohol, drugs or other substances that may result in the physician's or the physician assistant's performing services in a manner that endangers the health or safety of patients, professional incompetence, unprofessional conduct or sexual misconduct** identified by board rule.

As discussed below, a report of an impaired physician to the Medical Professionals Health Program (MPHP) satisfies this requirement. However, it is important to remember that, in addition to substance abuse, physicians and physician assistants are mandated to report reasonable knowledge of:

- Professional incompetence;
- Unprofessional conduct; and
- Sexual misconduct.

Failure to file a report is a civil violation for which a fine of not more than \$1,000 may be adjudged. Failure to report may also lead to disciplinary action against a physician or physician assistant's license for unprofessional conduct.

## VII. Mandated Reporting for Suspected Child Abuse

Maine law requires that physicians and physician assistants **immediately report or cause a report** to be made to the Maine Department of Health and Human Services (DHHS) when the physician or physician assistant knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred. **In addition, Maine law requires physicians and physician assistants to immediately report to the Maine DHHS if a child is under 6 months of age or otherwise non-ambulatory exhibits evidence of the following: Fracture of a bone; Substantial bruising or multiple bruising; Subdural hematoma; Burns; Poisoning; or Injury resulting in substantial bleeding, soft tissue swelling or impairment of an organ.**

Mandated Reporter Training and additional information regarding mandated reporting can be found at:

<http://www.maine.gov/dhhs/ocfs/cps/>

## VIII. Medical Professionals Health Program (MPHP)

The complexity of contemporary medicine and health care requires today's medical professional to be healthy and well balanced. Medical professionals are subject to high degrees of stress, both personally and professionally. This stress can impair one's ability to maintain a healthy balance and can result in addictive behaviors and psychiatric or medical disorders. The potential for impairment is universal and no one is immune from the dangers of alcohol or other drug use. The Medical Professionals Health Program is available to assist and advocate for a number of healthcare professionals.

The Medical Professionals Health Program offers non-disciplinary, voluntary participation under protocols developed with the Maine Board of Licensure in Medicine, the Maine Board of Osteopathic Licensure, the Maine Board of Dental Examiners, the Maine Board of Pharmacy, and the Maine State Board of Nursing.

### **Mission**

The Medical Professionals Health Program, a program of the Maine Medical Association, assists medical professionals of Maine by providing confidential, compassionate assistance and advocacy. Their clinical professionals and committee members help participants with diagnosed substance use disorders. Although they do not provide evaluation or treatment, they help participants better understand the treatment and recovery process and help implement strategies for return to safe practice.

### **Who does the MPHP consider impaired?**

The Medical Professionals Health Program helps professionals who suffer from alcohol or chemical dependency. The Medical Professionals Health Program and the Medical Professionals Health Committee

are advocates for colleagues whose health problems may compromise their professional and personal lives and the lives of their patients.

### **How are Participants Referred?**

Anyone with a concern and desire to help a family member, colleague or friend can make a referral. The MPHP also accepts self-referrals as well as anonymous calls. The MPHP is a voluntary program and does not mandate participation, but are glad to assist anyone interested in exploring referral options. Their clinical staff is prepared to discuss the process of referral and enrollment in addition to diagnosis and recovery options. It is in the best interest of participants, both personally and professionally, that treatment begins as soon as possible.

Title 24 M.R.S.A. §2505 mandates the reporting of physicians and physician assistants by licensees to the Board when they have reasonable knowledge of acts amounting to misuse of alcohol, drugs or other substances that may result in them performing services in a manner that endangers the health or safety of patients. The law also provides that if the license makes a report to the MPHP they do not have to make a report to the Board.

### **How does the MPHP help Medical professionals?**

The Medical Professionals Health Program assists medical professionals in developing strategies for treatment, helping them return to successful professional careers. The MPHP does not make diagnoses or provide treatment. The MPHP clinical staff and committee members act as advocates for their impaired colleagues, providing compassionate, comprehensive and confidential assistance.

For more information contact the Medical Professionals Health Program by phone at (207) 623-9266, by e-mail at [mphp@mainemed.com](mailto:mphp@mainemed.com), or visit their website at [www.mainemphp.org](http://www.mainemphp.org)

### **How the Board and the MPHP Interact**

The Board interacts with the MPHP (and the physicians involved in the program) in two very different ways.

1. The licensee enters the program voluntarily prior to coming to the attention of the Board. As long as the licensee meets the requirements of the MPHP and there has been no patient harm, the Board will not pursue discipline against the licensee and will keep their participation confidential. If the licensee violates the MPHP contract and/or tests positive for a substance, the MPHP will make a report to the Board.
2. The Board becomes aware of a substance abuse issue on its own. This often happens through police reports, newspaper articles, or notification from the MPHP that a contract has been broken. In those cases, the Board will often mandate participation in the MPHP and report the action as discipline.

The Board strongly urges any licensee who thinks they may have a problem to contact the MPHP. A high percentage of physicians and physician assistants with substance problems respond successfully to treatment and return to full practice.

### **General Health Information**

Although substance misuse/abuse is often one of the most talked about problems our licensees may face, the Board understands that its licensees are human and will have other human conditions. The Board

wants its licensees to be healthy, happy, and productive members of society. Therefore, the Board will not automatically discipline a licensee for being on certain medications (narcotics) or seeking treatment for certain conditions (mental health) as long as the licensee is being treated and monitored by a healthcare provider and they do not pose a risk to the public.

## **IX. Medical Records**

Maine law (22 M.R.S.A. §§1711 [pertains to hospital records], 1711-A [Fees charged for records], & 1711-B [pertains to treatment records in possession of health care providers]) governs a patient's access to their medical/treatment records. 22 M.R.S.A. § 1711-B(2) defines "treatment record" as "all records relating to a patient's diagnosis, treatment and care, including x rays, performed by a health care practitioner."

Upon receipt of written authorization, 22 M.R.S. §1711-B requires a health care practitioner to:

[R]elease copies of all treatment records of a patient or a narrative containing all relevant information in the treatment records to the patient. The health care practitioner may exclude from the copies of treatment records released any personal notes that are not directly related to the patient's past or future treatment and any information related to a clinical trial sponsored, authorized or regulated by the federal Food and Drug Administration. The copies or narrative must be released to the designated person within a reasonable time.

**Historically, the Board has considered thirty (30) days to be a reasonable time frame although, depending on the circumstances, the copies might need to be released more quickly.**

If the licensee is concerned the release of records to the patient might be detrimental to the patient's health, the licensee can ask the patient to designate an authorized representative and release the copies or narrative to that individual.

The law also provides the licensee the ability to charge the patient for copies of the narrative. The charge for the narrative may not exceed reasonable costs incurred in making the narrative and the charge for copies may not exceed \$5 for the first page and \$0.45 for each additional page up to a maximum of \$250 for the entire record or narrative.

**Although the law allows you to charge for this service, medical ethics do not allow you to withhold records needed for treatment because of an unpaid bill. Upon receipt of proper authorization you should not refuse, for any reason, to make records available to another physician presently treating the patient.**

## **X. Prescribing Issues**

Prescribing issues, especially related to the prescription of opioids, can be one of the most difficult parts of a licensee's practice. Board Rule Chapter 21 was created to help licensees who prescribe controlled substances. The Board recognizes that the appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain as well as to reduce the morbidity and costs associated with untreated or inappropriately treated pain. If a complaint involving management of pain comes before the Board it will refer to current clinical practice guidelines and expert review. The management of pain should consider current clinical knowledge and scientific research and the use of pharmacologic and non-pharmacologic modalities according to the judgment of the clinician. Pain should be assessed and treated promptly and the quantity and frequency of doses should be adjusted according to the intensity and duration of the pain, and treatment outcomes. Clinicians

should recognize that increased tolerance and physical dependence are normal consequences of sustained use of opioid analgesics and are not the same as addiction.

The Board also recognizes that the use of opioid analgesics for other than legitimate medical purposes poses a threat to the individual and society and that the inappropriate prescribing of controlled substances, including opioid analgesics, may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use. Accordingly, the Boards expect that clinicians will incorporate safeguards into their practices to minimize the potential for the abuse and diversion of controlled substances. The safeguards or “Universal Precautions” can help prevent the diversion of opioids to drug abusers. They include:

- Require a Controlled Substances Contract.
- Use a specific pharmacy.
- Obtain written informed consent to release the contract to local emergency departments, pharmacies, and other clinicians and providers.
- Check the Prescription Monitoring Program (PMP) frequently.
- Ensure the patient knows that if the clinician becomes concerned that there has been illegal activity, the clinician may notify the proper authorities.
- Ensure the patient knows that a violation of the contract will result in a tapering and discontinuation of the narcotics prescription.
- Ensure the patient knows that a risk of chronic narcotics treatment is increased tolerance, physical dependence, or addiction.
- Ensure the patient knows that it is the responsibility of the patient to be discreet about possessing narcotics and keeping medications in a secure, inaccessible place so that they may not be stolen.
- Use random urine/serum screening and pill counts.

Clinicians should not fear disciplinary action from the Board for ordering, prescribing, dispensing or administering controlled substances, including opioid analgesics, for a legitimate medical purpose and in the course of professional practice. The Board will consider prescribing, ordering, dispensing or administering controlled substances for pain to be for a legitimate medical purpose if based on sound clinical judgment and clear documentation of unrelieved pain. To be within the usual course of professional practice, a clinician-patient relationship must exist. Compliance with applicable state and/or federal law is required.

Licenses should not prescribe controlled substances for themselves or for family members except in emergency situations. The licensee’s objectivity can become compromised leading to ethical, regulatory, legal and personal issues.

## **XI. Prescription Monitoring Program**

**As of August 1, 2014, Maine law requires all Allopathic Physicians, Osteopathic Physicians, Dentists, Physician Assistants, Podiatrists, and Advanced Practice Registered Nurses who are licensed to prescribe scheduled medications to register with the Prescription Monitoring Program (PMP). To register, please go to the Prescription Monitoring Program website:**

<http://www.maine.gov/pmp> Download, complete and sign a registration form located within the yellow box. You may mail, scan and email or fax a signed form to the address located on the form. Please note there are two types of registration forms available: 1) Data Requester form for active prescribers with a DEA number, and 2) Sub-Account form for assistants/non-prescribing health professionals.

More PMP information is available at: <http://www.maine.gov/dhhs/samhs/osa/data/pmp/prescriber.htm>

**The Board strongly recommends regular use of the PMP. Regular use can lead to a reduction in prescription drug abuse, diversion, and overdoses by helping licensees detect “doctor shopping” and/or determining if a patient should be referred for substance abuse evaluation and treatment.**

## **XII. Telemedicine**

In 1999 the Board, along with medical and/or osteopathic boards from Maine, New Hampshire, Vermont, and New York adopted a statement of principle regarding telemedicine. It states, “Except for consultation as defined by our several states, provision of all medical services shall require a full license in the state in which the patient encounter will occur.” **This means that the practice of medicine occurs in the state where the patient is located.**

In 2014 the Board issued telemedicine guidelines that reiterated that statement. “Maine medical licensure is required for the practice of telemedicine- distance medicine. The only permissible exception to Maine licensure is a physician providing infrequent episodic care where there is an existing, on-going, established patient-physician relationship.” **In addition, the guidelines state that, “Audio only, telephone conversation, e-mail/instant messaging or fax are NOT acceptable methods for the practice of medicine in the State of Maine...”** There are three exceptions to this statement, which can be found on the Board’s website at [www.maine.gov/md](http://www.maine.gov/md).