

Spring 2023 Newsletter

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FROM THE CHAIR

Calling All Expert Reviewers: The Board Needs You

Maroulla S. Gleaton, M.D., Chair

Each year the Board receives roughly 200 complaints and mandated reports about licensed physicians and physician assistants. While the Board is made up of physicians and physician assistants in various medical specialties who review the complaints, scrutinize medical care and treatment, and evaluate formal responses to the allegations, there are times when it is absolutely vital for the Board

to have an outside expert perform a similar review but from another perspective. The Board routinely solicits outside expert reviewers on its website and in its newsletters, but we are always in need of more.

Having an outside expert case review is important for several reasons. First, while Board members can apply their medical knowledge, training, and experience in evaluating medical care and treatment, sometimes the care being reviewed is partly or wholly unfamiliar to members of the Board. Second, outside expert reviews insulate the Board from allegations that it is biased in its decision-making concerning the quality of care in a particular complaint. Third, the law in Maine requires that during adjudicatory proceedings before the Board, expert evidence and testimony come from a source other than a Board member, which is totally appropriate.

One of the most common delays in resolving complaints filed with the Board (or evaluating a problematic application for licensure) is the difficulty in locating outside expert reviewers willing to assist the Board. Convincing evidence of competence is essential, and the expert reviewer has access to guidelines put out by their respective specialty societies, and of course their own reservoir of knowledge and practice experience in their specialty.

The expert reviewer role is a critical one and not one to be undertaken lightly. It offers an opportunity for contributing immeasurably to the mission of the Board, the profession of medicine, and the public. Outside expert reviews promote excellence in medical practice, help identify and correct errors or deficiencies, and ensure that physicians and physician assistants are practicing at or above the standard of care with their patients. A clearly expressed analytical evaluation of an alleged problem can be a superb educational tool for the subject of a complaint, and an aid to the Board in identifying specific areas and opportunities for learning.

In conclusion, quality outside expert reviewers are essential for the Board to ensure that physicians and physician assistants are competent and qualified to practice medicine. If you are interested in giving back to the medical community and assisting the Board in its mission to protect the public, please consider contacting the Board to offer your services as an outside expert reviewer. Anyone interested in assisting the Board may contact Kelly McLaughlin, Complaint Coordinator at 207-287-6931 or kelly.mclaughlin@maine.gov.

Thank you!

WHAT EVERYONE SHOULD KNOW

Important Change Regarding Buprenorphine Use

Recent Change to DEA Registration Requirements Regarding Use of Buprenorphine for Treatment of Opioid Use Disorder

On December 29, 2022, the Drug Enforcement Administration DATA-Waiver registration was eliminated. All licensees should be aware of the following:

- A DATA-Waiver registration (“X-Waiver”) is no longer required to treat patients with buprenorphine for opioid use disorder.
- Going forward, all prescriptions for buprenorphine only require a standard DEA registration number. The previously used DATA-Waiver registration numbers are no longer needed for any prescription.
- There are no longer any limits on the number of patients a prescriber may treat for opioid use disorder with buprenorphine.

Currently, certain provisions of joint Board rules Chapter 12 “Joint Rule Regarding Office Based Treatment of Opioid Use Disorder” and Chapter 21 “Use of Controlled Substances for Treatment of Pain” are in conflict with these changes to the DEA registration requirements. Consequently, the Board will not investigate alleged violations associated with the DEA registration requirement changes retroactive to December 29, 2022.

Furthermore, the Board will initiate joint rulemaking regarding Chapter 12 and Chapter 21 to make them consistent with the changes to the DEA registration requirements.

ADVERSE ACTIONS

Adverse Actions

In 2022 the Board reviewed approximately 300 complaints and investigative reports – an average of 25 per meeting. While the number of complaints received by the Board remains consistently large, the number of complaints that result in adverse action is quite small. In most cases, the conduct resulting in adverse action is egregious or repeated or both.

The Board's complaint process is relatively straight-forward. FAQs about the complaint process are available on the Board's website: <https://www.maine.gov/md/complaint/discipline-faq>. Brochures regarding the complaint process are also available on the Board's website: <https://www.maine.gov/md/resources/forms>.

Upon receipt of a complaint, it is forwarded to the licensee for a written response and a copy of the medical records. In general, the licensee's response is shared with the complainant, who may submit a reply. The Board reviews the complaint file once completed, and may take any of the following actions:

- Dismiss
- Dismiss and issue a letter of guidance
- Further investigate
- Invite the licensee to an informal conference
- Schedule an adjudicatory hearing

The following adverse actions are being reported for the purpose of educating licensees regarding ethical and/or legal issues that can lead to discipline, and to inform licensees of any limitations or restrictions imposed upon scope of practice.

Donald B. Shea, M.D. License # MD18015 (Date of Action 02/15/2023)

On February 15, 2023, Dr. Shea and the Board entered into a Fourth Amendment to Consent Agreement amending paragraph 15(b) (1). Dr. Shea must comply with all requirements of and maintain a recovery maintenance agreement with the Maine Professionals Health Program ("MPHP").

Jonathan E. Harvey, M.D. License # MD14684 (Date of Action 02/14/2023)

On February 15, 2023, Dr. Harvey and the Board entered into a Consent Agreement for Conversion of License converting his administrative license to an active status license and requiring that Dr. Harvey comply with all terms of the reentry to practice plan including completion of a period of direct supervision of at least eight (8) months and 240 hours of patient care with reports to the Board.

Nancy B. Goodwin, M.D. License # MDE15724 (Date of Action: 02/13/2023)

On December 13, 2022, the Board approved Dr. Goodwin's request to permanently convert her medical license to an Emeritus License while under investigation.

Thomas Marks, M.D. License # MD24965 (Date of Action 01/31/2023)

On January 31, 2023, the Maine Board of Licensure in Medicine automatically suspended Dr. Marks's license pursuant to 32 M.R.S. 18511 following receipt of the New Hampshire January 26, 2023, Order of Immediate Suspension constituting disciplinary action taken by Dr. Marks's state of principal license through the Interstate Medical Licensure Compact.

Charles E. Reimers, P.A. License # PA1596 (Date of Action 01/11/2023)

On January 11, 2023, Charles E. Reimers, P.A. and the Board entered into a Consent Agreement for unprofessional conduct. The Consent Agreement requires that: 1) Mr. Reimers enroll in the Maine Professionals Health Program ("MPHP") and successfully comply with a behavioral health monitoring agreement for a period of at least (2) years; 2) not directly supervise or have a supervisory authority for female staff; and 3) complete continuing medical education courses on the subjects of disruptive behavior and professional boundaries within six (6) months of the effective date of the consent agreement.

Timothy J. Richardson, M.D. License # MD9418 (Date of Action: 11/28/2022)

On November 28, 2022, Dr. Richardson and the Board entered into a First Amendment to Consent Agreement for Conversion to Active Status amending the July 13, 2022, Consent Agreement with the Board. The First Amendment converts Dr. Richardson's license to active status and requires his compliance with all terms of the reentry to practice plan submitted to the Board on October 28, 2022, including supervision by an approved physician mentor/preceptor.

Wade T. Hamilton, M.D. License # MD13045 (Date of Action 11/08/2022)

On November 8, 2022, the Board issued an Order Directing Evaluation requiring Dr. Hamilton to undergo a neuropsychological evaluation.

LICENSING ISSUES

Mandated Opioid CME

When it is time to renew your license there are several items that can cause a delay. One of the most common items is the failure to obtain 3 hours of opioid CME every two years. Board Rule Chapter 21 states:

By December 31, 2017, and thereafter, clinicians must complete 3 hours of Category 1 credit Continuing Medical Education (CME) every two years on the prescribing of opioid medication as a condition of prescribing opioid medication. By December 31, 2018, and thereafter, all clinicians must complete 3 hours of Category 1 credit Continuing Medical Education every two years on the prescribing of opioid medication regardless of whether or not they prescribe opioid medication.

The full rule can be found at <https://www.maine.gov/md/sites/maine.gov.md/files/inline-files/Chapter%2021%2005.27.20.pdf>.

Every month there are 10 to 15 licensees who indicate they have not obtained the CME on their renewal application. This causes the application to be pended and, if it goes past the expiration date, requires the licensee to explain to their employer and every insurance company why their license has not been renewed.

Every licensee must obtain 3 hours of opioid-related CME every two years. There are good reasons for this rule. We are in the middle of an opioid epidemic and, whether or not you prescribe these medications, as an active clinician you come into contact with patients who are or have been affected by opioids. Whether or not you prescribe them, it is your duty to understand how they affect the patient you may be treating and/or interact with medications you may be prescribing. We often receive complaints, especially from radiologists and pathologists that they don't interact with patients and should be exempt. However, over the years the Board has seen clinicians in both specialties who have prescribed these medications for patients, families, or friends.

Unlike other states, the Maine Board does not require a specific course. You can choose what opioid-related course(s) to take. However, in order to help licensees meet this requirement, the Board has worked with Maine Medical Association Center for Quality Improvement to provide free opioid-related CME. The CME is online and available any time at <https://qclearinglab.org/all-courses/>. The CME is reviewed and updated on a regular basis.

Please be aware of your requirements for licensure and take advantage of the resources provided by the Board.

2022 Annual Licensing Report

Each year Board staff prepares reports of licensing activities that have happened during the past year. The full report can be found at: [2022 Annual Licensing Report](#)

HEALTH AND WELLNESS

The Board Is ALL IN

The **ALL IN** Program for Prioritizing Clinician Well-Being has been developed by #FirstRespondersFirst and the Dr. Lorna Breen Heroes' Foundation as a coalition of leading healthcare organizations committed to:

1. Advancing a state where the well-being of the healthcare workforce is prioritized, and individual healthcare workers feel valued and supported so they can sustain their sense of purpose and meaning in their work.
2. Making beneficial progress against persistent mental health and well-being challenges that disadvantage our healthcare workers and, therefore, our healthcare systems and the future of public health.

As part of this project, The Dr. Lorna Breen Heroes' Foundation is working with licensing boards to ensure that clinicians can access necessary mental health care without fear of losing their license and credentials because of overly broad and invasive mental health questions on applications.

States are acknowledged as **ALL IN** if they meet one of three criteria.

1. Ask one question consistent with the Federation of State Medical Board's Recommended Language that addresses all mental and physical health conditions as one, with no added explanations, asterisks, or fine print;
2. Refrain from asking probing questions about an applicant's health altogether; or
3. Implement an Attestation Model, like that used in North Carolina and Mississippi. This model uses supportive language around mental health from the board and holds physicians accountable for their well-being, making it clear that their self-care is patient care.

BOLIM is recognized as one of 19 states being **ALL IN**.

We are proud of this designation and will continue to support the de-stigmatization of mental conditions in physicians and physician assistants and encourage those who may be suffering from one to seek care and treatment – both for their well-being and to avoid an unnecessary progression of the condition to the point of impairment that compromises patient safety.

A full description of the ALL IN program and list of recognized states can be found at <https://drlornabreen.org/removebarriers/>.

BOARD NEWS

An Opportunity to Join the Board

Take advantage of this opportunity to gain a broad and deeply informed perspective on the spectrum of medical practice in Maine while performing an essential public service in overseeing public safety.

The Maine Board of Licensure in Medicine (“Board”) has been licensing and regulating allopathic physicians in Maine since 1895. Today, it consists of 11 members – 6 actively practicing physicians, 2 actively practicing physician assistants, and 3 public members. The Board is seeking two physician members who meet the following statutory qualifications:

[Be a] graduate of a legally chartered medical college or university having authority to confer degrees in medicine and must have been actively engaged in the practice . . . in this State for a continuous period of 5 years preceding . . . appointment to the Board.

The Board has a current special interest in seating a psychiatrist.

The Board meets once a month at its offices in Augusta, Maine. The members of the Board are provided with materials for an upcoming meeting 1-2 weeks in advance. A typical Board meeting commences at 8:30 am and lasts until 4:00-5:00 pm. During a meeting, the Board conducts reviews of applications for licensure, complaints and investigations, and rulemaking. In addition, the Board occasionally holds informal conferences and adjudicatory hearings to resolve complaints and investigations. **Please note the Board is currently holding remote meetings. Remote meetings are held on Zoom and start at 8:00 am.**

The Board is composed of motivated, hard-working individuals committed to ensuring the protection of the public. The Board is supported by a dedicated staff of professionals. Anyone who may be interested in this challenging and rewarding opportunity should contact Dennis E. Smith, Esq., Executive Director at: (207) 287-3605 or by email at dennis.e.smith@maine.gov; or Tim Terranova, Assistant Executive Director at (207) 287-6930 or e-mail at tim.e.terranova@maine.gov

BOARD OPPORTUNITIES

The Board Seeks Expert Reviewers

As the Board Chair has explained above, outside expert reviewers provide very important support for the Board to carry out its mandate to protect the public.

If you live and practice medicine in Maine, the Maine Board of Licensure in Medicine (Board) requests that you consider serving as an expert reviewer (expert) for the Board. The Board frequently seeks expert reviews of medical care and treatment regarding complaints filed with the Board. Providing expert reviews for the Board is another way physicians can serve Maine’s citizens. If you are interested in becoming an expert for the Board, please contact:

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FROM THE EDITOR

Book Review: Medical Ethics: A Very Short Introduction

The *Journal of Medical Regulation* has published “Medical Ethics: A Very Short Introduction” a book review by the editor of our very own newsletter, BOLIM. The article is available online at: <https://meridian.allenpress.com/jmr/article/108/4/37/490519/Medical-Ethics-A-Very-Short-Introduction>.

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Credit

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Commemorating 200 Years of Statehood

