Communication is Often Key to Patient Complaints

Physicians know about the adverse actions taken by the Board, but are often unaware of the less dramatic, but no less valid, complaints the Board receives. Most of the complaints the Board receives can be tied, at least peripherally, to communication, even if the complainant is not aware that communication is the problem. One type of communication complaint the Board often receives is regarding timeliness, both in the office and in follow-up. Here are two examples:

(1) A patient had an 11:00 a.m. appointment and presented on time. The patient was shown into an exam room to wait for the licensee. At 11:30 the patient heard someone tell the licensee that the 11:30 appointment was there. Based on what the patient heard, they believed the 11:30 appointment was with a salesman. The licensee responded that it was actually a recruiter. The licensee attended the 11:30 appointment before seeing the patient scheduled for 11:00. The patient left without being seen. Three weeks later, the licensee called and apologized. The Board recognizes that there are times when a licensee may be running behind in their schedule. However, the decision to meet with the recruiter instead of the patient was disrespectful and unprofessional. The lack of a timely apology exacerbated the problem. The Board expects its licensees to place a scheduled patient’s need to be seen above other administrative duties. If there is a problem or delay the Board expects the licensee to explain the situation to the patient and apologize if necessary.

(2) The licensee performed a pap smear on a patient. The pap smear had an abnormal result. The practice in this office was to give the abnormal result to the licensee so he/she could directly contact the patient. In this case the patient was not notified of the result until she came back for another appointment over a year later. The licensee stated that he/she had been ill and went on medical leave a short time after the pap smear was done. The Board found that the result was available to the licensee prior to his/her medical leave. Although the Board recognizes that its licensees may become ill and be absent from their practices for extended lengths of time, a personal medical leave is not a legitimate excuse for lack of patient communication. Your practice should have a system in place for communicating all test results as soon as possible. In addition, there should be a system in place to ensure continued communication with patients even if you are unable to be present.

Written Exam for Renewal

About 12 years ago, the Board stopped performing face-to-face interviews of each new licensee. Instead, every physician or physician assistant who applies for a permanent license must pass a 30-question exam focusing on the rules, policies and laws relating to the practice of medicine. The reading materials and questions are very specific to medical practice. Applicants who have taken the exam have reported significant educational value in the experience.

BOLIM has determined that every licensee in active status should pass this exam once every four years at license renewal. This change is a first step toward an enhanced assurance of continuing competency of practicing physicians and physician assistants. Those physicians whose licenses expire on May 31, 2011 will be the first required to take the 30-question “open book” examination. As part of the renewal process, you will be reminded to find the exam online, along with all the appropriate review materials (summarized for brevity). Answers to any incorrect responses will be immediately available to the taker to enhance the learning experience. All licensees with active status will be required to take the exam over the upcoming two years. No exam will be required in the following renewal cycle. A new exam will be introduced four years hence.

A recent, separate mass mailing announced this change in renewal requirements. Links to the exam and the review materials are now on the Board’s homepage should you wish to take the exam early. If you do not have internet access, a paper copy of the renewal application and examination materials will be provided on request.
Informed Consent: The importance of shared decision making

Recently, you have received the Board’s guidelines for Informed Consent in a separate mailing. Two years in the making, these guidelines were carefully prepared because the Board has seen an increasing number of complaints regarding informed consent. We take this opportunity to share an example of what can happen when the informed consent process does not receive appropriate attention by the licensee. This example comes from a recent case which ended in the licensee receiving a Letter of Guidance.

A patient went to a licensee’s office for an initial consultation prior to a procedure. A nurse practitioner performed the evaluation and obtained informed consent for the procedure. During the procedure a different surgical method was used. The patient experienced a recognized post-operative complication and, during treatment for the complication, learned that the procedure had not been done as described. The patient filed a complaint with the Board. During the investigation the licensee argued that the nurse practitioner was knowledgeable about the procedure and able to reliably communicate the information to the patient even though the nurse practitioner described a method the licensee did not usually use. In addition, the licensee argued that he/she was involved in the informed consent process because he/she had helped author the consent form. The Board’s expressed concern was that the physician was not adequately and directly involved in the informed consent communication process. As a result of the patient’s complaint the licensee now performs all initial evaluations, including informed consent.

As stated in the guidelines, “the primary value of documented informed consent is that it represents the existence of a relationship between physician and patient that is based upon, or at least includes, an element of shared decision making.” In this case, there was no relationship between the patient and the licensee. In addition, the patient could not give truly informed consent, because incorrect information was given. Had the licensee performed the informed consent process personally, this complaint may have been avoided. As you carry out your professional duties, the Board urges you to read the guidelines and incorporate them into your practice.

Board Member Appointment Process

The Maine Board of Licensure in Medicine consists of six physician members and three public members. A physician seat will be vacant after June 30, 2011.

Appointments are made by the Governor, through the Director of Boards and Commissions, currently Michael Hersey (207 287-3531). To be considered, candidates must first submit a letter to the Governor expressing their interest in appointment. The letter can be mailed to Boards and Commissions, Office of the Governor, 1 State House Station, Augusta ME 04333-0001, or emailed to governor@maine.gov. Candidates are also encouraged to submit an updated resume and are required to complete the Application for Gubernatorial Appointment. The application and more detailed instructions can be found online at www.maine.gov/governor/lepage/cabinet/appointments/process.shtml.

License Tracking Software Conversion

After years of working with an outdated computer system, the Board has nearly completed its conversion to a new system of tracking the licensing process, maintaining licensing data, and tracking investigation of complaints. The Agency Licensing Management System (ALMS), which is recommended and supported by the Maine Office of Information Technology, is currently used across Maine state government. The ALMS software, owned and supported by Sauper Associates, a US company with offices in Gardiner, will provide updated reporting capabilities to license applicants, and will assure more accurate and faster processing of applications. Conversion and system switch over, with no impact to licensees or applicants, is on schedule for December 2011.

Special Thank You to Board Staff

In 2009, the Legislature announced twenty State Government Office Closures for Fiscal Years 2009-2010 and 2010-2011. Board offices were closed on those days and the Board’s staff were required to take twenty days off without pay.

The Board thanks and extends its sincere appreciation to staff who worked diligently to complete the essential workload to protect the health, safety and welfare of the people of Maine. The Board appreciates the patience of the physicians, physician assistants, hospitals and Maine citizens who may have been inconvenienced by the closure days.
Maintenance of License (MOL)

The pace of new medical knowledge grows at an ever increasing rate. The day when providers could count on structured continuing medical education to maintain lifelong competency has passed. New efforts must be made by physicians to assure they stay up to date with medical knowledge and techniques, and the Board is charged with finding new mechanisms to make certain that licensed physicians are as competent as they were when originally licensed. For the past four years, the Federation of State Medical Boards (FSMB) has been working to develop a new paradigm in assuring lifelong competence. This spring, the FSMB will present to all member boards for their consideration an extensive policy statement and guidelines for implementation of an enhanced way to reassure the public that physicians remain competent. Named “Maintenance of Licensure” (MOL), this new policy will provide multiple avenues to implement continuous learning, and will improve the ways the benefit of continuous learning is measured.

There will be many ways to assure lifelong learning and continuing competency development. Traditional continuing medical education (CME) will continue to be a part of the process. Physicians who are ABMS Board certified have been hearing of changes coming in that area. Specialty boards have developed protocols to make certain that specialty board certification remains meaningful. Commonly called Maintenance of Competency, or MOC, these protocols provide a process of lifelong learning and examination. For those physicians who are not “boarded,” MOL will offer a similar process of learning to maintain competency.

While the FSMB is presenting a general model, it will be up to each state licensing board to develop the MOL program that best meets the needs of its citizens. You will be hearing a great deal more over the next few years in this area, as all of us working in healthcare search for ways to assure the public that their physicians and physician assistants remain competent. Your Board will discuss the concept this spring to consider whether, and at what pace, it wishes to pursue MOL. Currently CME is the only way to verify maintenance of competency over the lifetime of medical practice.

Online License Applications

Over the past few years the Board has very successfully used an online license renewal process. That technology will now be applied to initial applications for licensure as well. While it is likely that applicants will never completely avoid mailing certain application documents to the Board, using an online application will streamline and speed the license application process. Every state that has implemented online application has sung the praises of the new technology.

The Board has entered into a joint project with the Federation of State Medical Boards to use a uniform application, which is currently being used by twelve other state medical boards. Using this application will make the license application process more portable among states. Further, the application will also be linked to the Federation’s Credentials Verification Service (FCVS), which Maine applicants are required to use. Using the online application will provide demographic elements to both the Maine application and the FCVS application, eliminating significant duplication of effort by the applicant. While Board staff performs original source verification of professional references, the FCVS will simultaneously confirm education and training credentials. With the recently completed major overhaul of the FCVS, we anticipate reduced application processing time. The new online application is being tested, and should be ready for use by May 2011.
Did you know?

The Health Insurance Portability and Accountability Act of 1996, commonly known as HIPAA, has enhanced the right of consumers to keep their personal health information confidential. Under HIPAA, the Maine Board of Licensure in Medicine is a “health oversight agency” and is exempt from HIPAA requirements for patient consent and authorization in obtaining medical records for the purposes of carrying out its statutory duties. While the Board attempts to acquire a patient consent prior to obtaining medical records, it is not bound by law to do so.

Notify the Board of Business and Home Address Changes Immediately

Many people experience problems at renewal time because they have neglected to notify the Board of an address change. To prevent delays or even loss of license due to lapse, notify the Board immediately of any change in your addresses.

To verify that the Board has your correct addresses on file, visit either of the following sites: www.maine.gov/md or www.docboard.org/me/me_home.htm and click on “Find a Licensee” in the lower left.

If the address is incorrect, simply send a signed note with changes to the Board or submit the new information online at www.maine.gov/online/doclicensing/.

Confidential Help Available

The Medical Professionals Health Program: Confidential professional help for substance abuse is available by calling (207) 623-9266. For more information visit the MPHP website at www.mainemed.com/health/index.php or send an email to mphp@mainemed.com.