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The President's Message



"Shock and Awe"

That phrase could not be more appropriately applied than to the recent effort within the General Assembly to change the definition of the practice of medicine.

Literally, in the final hours of the last legislative session there was an attempt to establish statutory provisions favorable to the insurance industry et al at the expense of the healthcare consuming public. It is not surprising that the insurance industry would attempt to divest itself of account-

ability relative to utilization review. What is shocking is the fashion in which it was done. Without any opportunity for review or challenge by the medical community a far-reaching amendment was added to a real estate licensure bill, S599. The sponsor of this amendment assured senatorial colleagues that there were no controversial provisions. Indeed the bill would have reversed hard fought for provisions of the Medical Practice Act of 2006 that addressed the safe practice of medicine across state lines and accountability for insurance companies in determining issues of medical necessity. The new bill specifically deleted Section 40-47-20 (36),

continued on page 8

Medical Practice Act Changes

Effective June 9, 2006, many changes were enacted with passage of S 881, which overhauled the State's Medical Practice Act. Among the most significant changes were the following:

- Medical Disciplinary Commission physician members are now appointed by the Board of Medical Examiners.
- If your license is lapsed with the Board, and you have not practiced medicine in South Carolina, you will be required to reactivate your license and pay \$100 per month, or a portion thereof, in which you have not renewed your license. However, if you continue to practice medicine with a lapsed license you will be required to reactivate your license, pay a fine of \$1,000 for each month, or portion thereof, in which you have practiced medicine in South Carolina without renewing your South Carolina license.)

- The Board may require a licensee, who is found to have violated the Medical Practice Act, to pay a fine of up to \$25,000 and pay the costs associated with investigations and hearings.
- The name of an initial complainant must be provided to the licensee, unless the Board determines there is good cause to withhold that information.
- The formal complaint and an answer must be available for public inspection and copying 10 days after an answer is filed, or if no answer is filed, 10 days after the expiration of the time to answer.



The full text of the Medical Practice Act, and the Board's regulations and policies can be found on the Board's Web site at www.llr.state.sc.us/pol/medical/.

The Examiner

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Board Staff

The administrative staff of the South Carolina Department of Labor, Licensing and Regulation provides support to the Board. The staff may be reached at (803) 896-4500 or by e-mail: medboard@llr.sc.gov.

- Bruce Duke, Administrator
- Melissa Fulton, Assistant to the Administrator
- Annette Disher, Assistant Administrator for Licensing, Cardiovascular Invasive Specialists (CIS) Licensure
- Kathy Combs, Data Coordinator, Listing Requests
- Brenda Eason, Physician Assistant and Respiratory Care Licensure
- Donna Howard, Licensure for M.D., D.O., Anesthesiologist's Assistant
- Thalia Miller, Compliance and Freedom of Information Act Requests
- Theresa Richardson, Limited/Volunteer Licenses and Reactivation
- Kathryn Spires, Licensure Verifications
- Michael Rowland, Acupuncture Licensure

Visit us on the web:
www.llr.state.sc.us/pol/medical/



FCVS Credentials Verification

The State Board of Medical Examiners Medical Practice Act, which passed in May 2006, requires all applicants applying for a permanent license to practice medicine in South Carolina to provide primary source verification. The complete Medical Practice Act is on the Board's Web site at www.llr.state.sc.us/pol/medical. The new Medical Practice Act requires primary source verification of an applicant's identity, medical education, postgraduate training, licensure examination history, disciplinary history, and other core information required for licensure be provided through an independent credentials verification organization. The Board has approved the Federation of State Medical Board's Federation Credentials Verification Services (FCVS) to provide primary source verification of all applicant credentials.

FCVS obtains primary source verification of medical education, postgraduate training, examination history, board action history, board certification and identity. This repository of information allows a physician and/or physician assistant to establish a confidential, lifetime professional portfolio of primary-source verified credentials — allowing quick, easy and inexpensive access to medical credentials.

These documents can be used throughout the applicant's career for state licensure, hospital privileges, employment and professional memberships. For physicians, this service is extremely valuable for those graduating from medical schools outside the U.S. or Canada; where verification is often time consuming, costly and difficult. At the physician's request, the FCVS can be forwarded to any state medical board that has established an agreement with FCVS, hospital, health care or any other entity. Utilizing the FCVS eliminates the applicants from having to present the originals of their credentials when interviewing with a member of the Board for a permanent license. Turn around time averages 60 days from the date the application is received by FCVS. For more information, contact the Federation Credentials Verification Services (FCVS) at P.O. Box 6198501, Dallas, TX 75261-9850, or by telephone (888) 275-3287 or by e-mail fcvs@fsmb.org.

LICENSURE STATISTICS

Doctors of Osteopathy	620
Medical Doctors	14,302
Total	14,922
Physician Assistants	597
Respiratory Care Practitioners	2,269
Cardiovascular Invasive Specialists	0
Anesthesiologist Assistants	7
Acupuncturists	77
Grand Total	17,872

Physician Assistants Eligible to Request Prescriptive Authority

Physician Assistants in South Carolina are now eligible to request prescriptive authority for controlled substances in schedules III through V from the Board of Medical Examiners.

Prior to submitting a request to the Board, a Physician Assistant (PA) must complete additional CME requirements, register with the S.C. Department of Health and Environmental Control, Bureau of Drug Control, and register with the Drug Enforcement Agency. Numerous state physician assistants, physicians, physician assistant educators, and members of the Board of Medical Examiners were involved in the drafting of the new PA Practice Act. As part of the initial expansion, Physician Assistants must provide the Board with documentation of at least 15 Category I CME hours related to appropriate prescribing of controlled substances acceptable to the Board. Thereafter, to maintain expanded prescriptive authority, each PA must obtain an additional four Category I CME hours related to appropriate prescribing of controlled substances every two years upon renewal.

The Medical University of South Carolina (MUSC) is currently offering a course to meet the CME requirement at www.musc.edu/chp/pa/pa_cme/pac.htm.

The Board's application and a detailed description of the

expanded prescriptive authority are available online at www.llr.state.sc.us/POL/medical.

In addition to expanded prescriptive authority, Physician Assistants are eligible for a temporary license prior to the personal interview. Temporary licenses are issued up to 90 days. The Physician Assistant and his/her supervising physician must contact a Board member or Board designee for the personal interview within the 90-day temporary period. Temporary licenses cannot be extended or renewed. A Physician Assistant with a temporary license is not eligible for prescriptive authority. The Board of Medical Examiners is confident that these recent regulatory changes will both enhance the quality and increase the access of health care services for South Carolinians.



Current Competency or Other Qualifications

In addition to meeting all other licensure requirements, an applicant must pass the Special Purpose Examination (SPEX) or the Composite Osteopathic Variable-Purpose Examination (COMVEX), unless the applicant can document within 10 years of the date of filing a completed application to the Board one of the following:

- (1) National Board of Medical Examiners examination
- (2) National Board of Osteopathic Medical examiners examination;
- (3) FLEX;
- (4) USMLE;
- (5) MCCQE;
- (6) SPEX;
- (7) COMVEX;
- (8) COMLEX-USA;
- (9) ECFMG;
- (10) Certification, recertification or a certificate of added qualification examination by a specialty Board recognized by either

the American Board of Medical Specialties (ABMS), the American Osteopathic Association (AOA), or other organization approved by the Board; or (11) Maintenance of certification by a specialty board recognized by the American Board of Medical Specialties, the American Osteopathic Association, or another organization approved by the Board, as evidenced by having acquired 150 hours of Category 1 continuing medical education approved by the American Medical Association or American Osteopathic Association, as appropriate, and the specialty Board of the applicant during the three years preceding the date of the application.



Termination of Supervisory Relationship: Notice to Board

PAs and supervising physicians are reminded of the rules concerning a change from one supervising physician to another found in Section 40-47-995 of the Physician's Assistant's practice act.

If the Primary Supervising Physician leaves the practice, the Physician Assistant must stop working until he/she has written approval from the Board for another physician to serve as his/her primary supervising physician. An alternate supervising

physician may not assume this role without approval from the Board.

A physician wishing to serve as an alternate supervising physician must request permission from the Board in writing. This request must include the proposed alternate supervising physician's signature and South Carolina medical license number. In order to serve as a primary or alternate supervising physician, the physician must hold a permanent, unrestricted South Carolina license.

New Application on Web site

The Medical Board's new license application can be found on its Web site with many changes implemented by the new practice act.

1. Graduates of medical schools located outside the United States or Canada must document a minimum of three years of progressive postgraduate medical residency training in the United States approved by the Accreditation Council for Graduate Medical Education (ACGME), American Osteopathic Association (AOA) or postgraduate training in Canada approved by the Royal College of Physicians and Surgeons, except that if an applicant has been licensed in another state for 10 years or more, the applicant is only required to document one year of post graduate residency training approved by the Board; or

a. document successful completion of a Fifth Pathway Program; and

b. complete a minimum of three years progressive post graduate medical residency training in the United States approved by the ACGME or AOA or postgraduate training in Canada approved by the Royal College of Physicians and Surgeons or be Board eligible or Board certified by a specialty board recognized by the American Board of Medical Specialties (ABMS), the American Osteopathic Association, (AOA), or another organization approved by the Board;

c. graduates who have completed at least two and one-half years of progressive postgraduate medical residency training in the program in which they are currently enrolled may be issued a license upon certification from the program of their good standing and expected satisfactory completion.

d. graduates who have been licensed in another state for five

years or more without significant disciplinary action need only document one year of postgraduate training approved by the Board.

e. foreign graduates may satisfy the three-year postgraduate training requirement with at least one year of approved training in combination with certification by a specialty Board recognized by the ABMS, AOA, or another organization approved by the Board.

f. the Board may waive the ECFMG or Fifth Pathway requirement if the applicant is to have a full-time academic faculty appointment at the rank of assistant professor or greater at a medical school in this state.

2. The Board may accept a full-time academic appointment at the rank of assistant professor or greater in a medical or osteopathic school in the United States as a substitute for, and instead of, postgraduate residency training. Each year of this academic appointment may be credited as one year of postgraduate medical residency training for purposes of the Board's post-graduate training requirements.

3. For purposes of satisfying postgraduate medical residency training requirements, the Board may accept postgraduate training in the United States approved by the Accreditation Council on Graduate Medical Education or the American Osteopathic Association or postgraduate training in Canada approved by the Royal College of Physicians and Surgeons.

To obtain an application and for information regarding South Carolina Medical licensure go to the Board's Web site at www.llr.state.sc.us/pol/medical. Effective December 1, 2006, all physicians applying for a permanent South Carolina Medical License are required to utilize the FCVS.

How to Correctly Handle Requests for Patient Records



Practitioners often encounter questions concerning the proper way to handle record requests from patients. As a starting point in responding to these situations, the Patient Records Act, S.C. Code 44-115-5

et seq. gives guidance in many instances. Key provisions of this act include the following:

44-115-70 Records not to be withheld because of unpaid medical bills

Medical Records may not be withheld because of an unpaid bill for medical services

44-115-80 Fees physician may charge for search and duplication of records.

A physician, or other owner of medical records as provided for Section 44-115-130, may charge a fee for the search and duplication of medical record, but the fee may not exceed 65 cents per page for the first 30 pages and 50 cents per page for all other pages, and a clerical fee for searching and handling not to exceed \$15 per request plus actual postage and applicable sales tax. A physician may charge a patient no more than the actual cost of reproduction of an X-ray.

CLOSING A MEDICAL PRACTICE

The South Carolina Board of Medical Examiners has adopted guidelines for the proper way to close a medical practice. To view these guidelines, visit our Web site at www.llr.state.sc.us/

DATES TO REMEMBER:

Board Meeting Dates

February 4 – 6, 2008

May 5 – 7, 2008

August 4 – 6, 2008

November 3 – 5, 2008

Physician Assistant Committee Meetings

These meetings will be held at the Medical Board Office and begin promptly at 2 p.m. in room 202.

January 4, 2008

April 4, 2008

June 27, 2008

September 26, 2008

Medical Devices/Delegable Medical Act/ Scope of Practice

PURPOSE

• To provide model legislative and regulatory language upon which the state medical board can develop or improve their regulations governing the scope of practice. The goal is to protect patient safety, and ensure that physician practices commensurate with their education and training.

DEFINITIONS

- “Adverse incident” means any patient complication or any unforeseen unintended outcome, or perception by the patient of complications.
- “Board certified physician” means an ABMS/ABOMS board-certified or board eligible physician licensed by the state to practice medicine.
- “Cutaneous medicine” means performing any act or procedure that, by its use, can alter or damage living human tissue. This includes, but is not limited to, the use of all lasers, light sources, microwave energy, electrical impulses, chemical applications, particle sanding, the injection or insertion of foreign or natural substances, or soft tissue augmentation.
- “Light-based medical device” means any device such as lasers, light sources, intense pulsed light and microwave energy that has the ability to alter or damage living human tissue.
- “Non-physician” means any person that may work under the supervision of a licensed physician.
- “Patient” means any member of the public who is provided access to a procedure performed by a licensed physician or under the supervision of a licensed physician.
- “Training” means acceptable training programs such as those that conform to ABMS/ABOMS or specialty society standards; or training that pertains to cutaneous medicine, and the physics and safety of light-based devices.

PHYSICIAN RESPONSIBILITIES

- If advertising as board certified, a physician must specify which ABMS/ABOMS board (s) they are certified by.
- The physician must examine each patient prior to any initial treatment or prior to authorizing treatment by a non-physician.
- The physician should examine any significant new problems with the patient.
- The physician must only perform procedures that are within his/her scope of practice based on his/her education and training.
- When performing or providing supervision for cutaneous medical procedures, a physician must have adequate training in the procedures and the devices used for performing the procedure.
- The physician must only delegate procedures to non-physicians

that are working within their scope of practice based on their education and training.

- The physician shall develop written office protocols for non-physicians under his/her supervision for non-physicians to follow when using all devices, including light-based medical devices. The written office protocols must be compliant with existing state law. The written protocol should include:
 - The physician (and back-up physician if applicable) responsible for supervision of the non-physician.
 - A statement of activities, decision criteria, and plan the supervised non-physician must follow when performing the light-based procedure.
 - Identification of all devices and settings, including light-based devices, to be used for patients who meet selection criteria.
 - Methods by which all devices, including light-based devices are to be operated and maintained.
 - A description of appropriate care and follow-up for common complications, serious injury, or emergencies.
 - The physician shall provide on-site supervision for all non-physicians under his/her supervision performing cutaneous medical procedures. The physician must be immediately available at all times in the event of complication or emergency.
 - The physician shall notify the patient if the procedure will be performed by a non-physician, and obtain their consent.
 - The physician shall maintain professional and legal responsibility for the patient’s care and treatment at all times.

NON-PHYSICIAN RESPONSIBILITIES

- Non-physicians must only perform procedures under direct supervision that are within their scope of practice, based on their education and training.
- Non-physicians must have documentation of their training.
- Non-physicians must be properly licensed (if applicable) by the appropriate state board.
- Non-physicians must follow written office protocols when performing procedures using all medical devices, including light-based medical devices.
- Non-physicians must report all adverse incidents to the supervising physician and document them in the patient’s chart.
- Non-physicians must satisfactorily complete a documented special education and training program as applicable: laser physics, safety, techniques, and pre and post operative care and laser safety, which includes supervised practice and clinical skill competency
 - Continuing education for these procedures is ongoing and documented.

LICENSEE LISTING AVAILABLE

The South Carolina Medical Board no longer publishes a directory of licensees. However, you may purchase a listing of licensees by completing and submitting a licensure list request form at \$30 per licensee listing profession or \$50 for the complete listing of all licensee professions under the Board of Medical Examiners. The listing includes the practice address, practice telephone number, license issue and expiration date and Board specialty (if applicable) for all Medical/Osteopathic Physicians, Physician Assistants, Respiratory Care Practitioners, Anesthesiologist’s Assistants and Acupuncturists. The form is available at www.llr.state.sc.us/POL/Medical/FORMS/MedPrivacyNotice.pdf

Disciplinary Actions November 2006 – October 2007

The disciplinary actions listed below are summaries of Board Final Orders. For a copy of the complete Orders go to www.llr.state.S.C.us/POL/Medical/index.asp?file=BDActions.htm.

Respondent/Location	Action/Date	Violation	Board Action
Atkins, D. Lanette, MD Columbia, S.C.	Final Order August 20, 2007	Prescribing Issues; Unethical Conduct	Public Reprimand with Conditions; fine
Broadway, Anne L., MD Elgin, S.C.	Final Order August 20, 2007	Prescribing Issues; Sexual Boundaries Unethical Conduct	Public Reprimand with conditions; fine
Brown, Dan D., RCP Florence, S.C.	Final Order March 15, 2007	Convicted of Felony	Revocation
Buck, Melanie A., RCP N. Charleston, S.C.	Final Order August 16, 2007	Violation of Previous Order	Indefinite Suspension; fine
Chandler, Michael K., MD Florence, S.C.	Final Order December 7, 2006	Violation of Previous Order	Indefinite Suspension
Dhar, Jyotsna K., MD Hampton, S.C.	Final Order December 7, 2006	Prescribing Issues	Public Reprimand with Conditions
Ewens, Joseph D., MD Summerville, S.C.	Final Order December 7, 2006	Unlawfully obtained prescription for controlled substance	Public Reprimand with Conditions
Floyd, Jr., James L., MD Myrtle Beach, S.C.	Final Order December 7, 2006	Compliance with Previous Order	Suspension Stayed with Conditions
Fowler, Jimmy D., MD Union, S.C.	Final Order March 15, 2007	Pled guilty to Felony	Indefinite Suspension
Haddon, Werner S., MD Raleigh, NC	Final Order February 28, 2007	Violation of Previous Order	Public Reprimand with conditions
Kellett, Richard S., MD Greenville, S.C.	Final Order September 5, 2007	Diversion of a Controlled Substance	Public Reprimand with conditions
Khoury, John D., MD Columbia, S.C.	Final Order May 16, 2007	Sexual Misconduct	Public Reprimand with conditions
McIver, Ronald A., DO Hodges, S.C.	Final Order February 28, 2007	Diversion of a Controlled Substance	Public Reprimand; Indefinite Suspension
Mickel, Reginald T., RCP Columbia, S.C.	Final Order November 7, 2006	Violation of Previous Order	Suspension Stayed with Conditions
Perez, Angel, MD Columbia, S.C.	Final Order March 15, 2007	Unlawfully Obtained a Controlled Substance	Public Reprimand
Sanders, Anita K., RCP Easley, S.C.	Final Order May 24, 2007	Diversion of a Controlled Substance	Public Reprimand with conditions
Suber, Walter J., DPM Florence, S.C.	Final Order February 7, 2007	Diversion of a Controlled Substance	Terms and Conditions
Walls, Allan C., MD Columbia, S.C.	Amended Final Order April 18, 2007	Unlawfully obtained a Controlled Substance	Indefinite Suspension
Weatherford, Samuel H., PA Sullivan's Island, S.C.	Final Order May 24, 2007	Unlawful Prescribing of a Controlled Substance	Public Reprimand with conditions
Wilson, John W., MD	Final Order May 16, 2007	Unlawful Distribution of a Controlled Substance	Public Reprimand with conditions; Fine
Wright, III, Peter, MD	Final Order November 16, 2006	Placed on Probation in New York for Negligence	Indefinite Probation with conditions
Zvejnieks, Peter C., MD	Final Order March 15, 2007	Violation of Previous Order	Public Reprimand with conditions

Office-Based Surgery Requirements

Regulation 81-96 concerning office-based surgery became effective on July 27, 2007. This regulation was enacted to promote patient safety in the non-hospital, office-based setting during procedures requiring administration of local anesthesia, sedation/analgesia, or general anesthesia, or minor or major conduction block.

Below is listed the major components of the regulation.

OFFICE ADMINISTRATION

Each office-based practice must develop and implement policies on the following:

- Emergency care and transfer,
- Medical record maintenance,
- Infection control,
- Performance improvement,
- Reporting of adverse events,
- Federal and State laws and regulations, and
- Patient bill of rights

CREDENTIALING

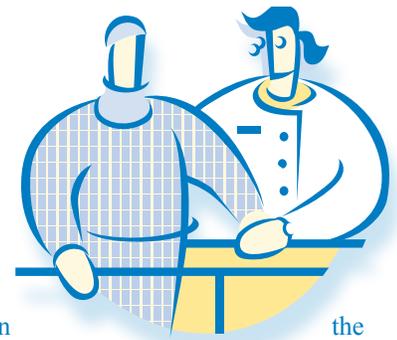
Practices performing office-based surgery or procedures that require the administration of moderate or deep sedation, or general anesthesia must be accredited within the first year of operation by an accreditation agency.

PRACTITIONERS

The surgical procedures and anesthesia services performed by the practitioner must be commensurate with each practitioner's level of training and experience. Criteria to be considered to demonstrate competence include:

- State licensure

- Procedure specific education, training and experience
- Physician must have staff privileges in a hospital to perform the same procedure as that being performed in office setting, and
- Adequate malpractice insurance.



STANDARDS FOR OFFICE PROCEDURES

- The physician must maintain current certification in advanced resuscitative techniques as appropriate.
- One assistant that is immediately available must be certified in advanced resuscitative techniques as appropriate.
- Supervision of the sedation component of the procedure should be provided by a physician who is immediately available, who possesses sufficient knowledge, and who is qualified in accordance with law.
- Sedation/analgesia or anesthesia must be administered or supervised only by a duly licensed, qualified and competent physician.
- A registered nurse or other licensed personnel practicing within their scope of practice must monitor the patient postoperatively and have the capability of administering medications as required.

The regulation in its entirety can be found on the Board's Web site at www.llr.state.sc.us/pol/medical.

Medical Board Seeking Experts

The Board of Medical Examiners is seeking physicians to serve as expert reviewers for complaints it receives for investigation.

You must be in active practice, board certified in your area of practice and have the time to serve. In addition to reviewing medical records, you must be available to testify before the Medical Disciplinary Panel should the case be scheduled for a hearing. Hearings are held in Columbia.

The Board is seeking reviewers in the following areas of practice: emergency medicine, obstetrics and gynecology, pediatrics, internal medicine, cardiology, general surgery, plastic surgery, orthopedics and orthopedic surgery, nephrology, neurology, ethics, oncology, family practice, orthopedics, anesthesiology, general psychiatry and psychiatry with specialty in addictions. Your service in this capacity is vital for the Board to carry out its duty to protect the public. For additional information, contact Kathy Meadows, chief investigator at 896-4470, or for an application, send your curriculum vitae to:

LLR - South Carolina Board of Medical Examiners
Attention: Bruce Duke - Administrator
P.O. Box 11011
110 Centerview Drive
Columbia, S.C. 29211

CRIMINAL HISTORY BACKGROUND

Criminal background checks are now required of applicants for a license to practice medicine in South Carolina.



Synergy Business Park, Kingstree Building
110 Centerview Drive, Suite 202
Post Office Box 11289
Columbia, S.C. 29211-1289

The President's Message ~ continued from page 1



(e) and (f). These sections define the practice of medicine as: (1) Rendering a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient or the actual rendering of treatment to a patient within this state by a physician located outside the state as a result of transmission of individual patient data by electronic or other means from within the state to such physician or his or her agent and (2) Rendering determination of medical necessity or a decision effecting the diagnosis and/or treatment of the patient. With literally one stroke, these sections were deleted and such performance would no longer be considered the practice of medicine. The South Carolina Board of Medical Examiners (The Board) was alerted to the hidden provision in the bill by the South Carolina Medical Association (SCMA) after it had passed the Senate. An urgent call was made by the Medical Board to Representative Kris Crawford who took measures to assure the bill would be referred to a conference committee thereby giving temporary reprieve from its ratification. Reintroduction of a reconciled version is expected in the next legislative session. Dr. Gerald Harmon, President of the SCMA, submitted a well-crafted, compelling letter to the senior, senatorial confer-

ence committee member, Senator Gregg Ryberg. Dr. Harmon stipulated that the redefining of the practice of medicine was in no way germane to the real estate licensing bill and indeed was "bobtailing" at its worst. The Board's concern in this matter is its capacity to protect the public. The Board would lose its regulatory control over the internet practice of medicine, exposing the citizens of South Carolina to out of state abuse. It would also lose its ability to enforce fair utilization review as determination of medical necessity would no longer be considered the practice of medicine. The public to date has unequivocally endorsed these provisions. The public should likewise appreciate the intrinsic value of a symbiotic relationship between its regulatory agency for the practice of medicine and the professional association of its licensees. This agency is grateful to the SCMA for its vigil to assure the Board's codified authority to protect the public and to deter misconduct. As in this instance, and others will follow, there are forces and interests that would have it otherwise. Inscribed upon the President's gavel is "Truth, Duty, and Compassion." The public deserves no less.

Louis E. Costa, DMD, MD
President, State Board of Medical Examiners