



The Examiner

A Newsletter of the South Carolina Board of Medical Examiners August 2002

This issue contains new information that may directly affect your practice!

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South Carolina Department of Labor, Licensing and Regulation

2003 Medical Board Directory Under New Format

The cost of printing and mailing the 2002 Board of Medical Examiners Directory was \$65,269. With increased mailing costs for 2003 and anticipated increase in paper and printing costs, producing a paperbound directory for all registered physicians, physician assistants and respiratory care practitioners in South Carolina exceeds the Board's budget capabilities. At the May 2002, meeting, the Board decided to forego producing a printed directory and to 1) produce and mail to each South

Carolina registered licensee a computer disk (CD) directory at no cost, and 2) to put the directory on the Board's Web site with access to the data by name, specialty and geographic location. The cost estimate for this new electronic format should not exceed \$20,000. While this is a significant change from past years, it is necessary to keep the Board's operational costs within the budget. A production date for the CD directory has not yet been set.

President's Note

Address to SCMA House of Delegates April 26, 2002

On behalf of the the Board of Medical Examiners, I bring you greetings as well as appreciation for the opportunity to address the SCMA House of Delegates briefly today, to summarize the Board's activity over the last year and to highlight for you a couple of issues that I believe would be important to all South Carolina physicians. I also want to congratulate SCMA leadership for its willingness to give us testimony and input on many issues as we attempt to fashion policy for our state.



First to summarize Board activity in 2001:

• Most importantly, three new Board members were elected and appointed last year, the largest single year turnover in the last decade. They are Dr. Stephen Gardner, a neurosurgeon from Greenville, Dr. Donald Gregg, an emergency physician from Greenville, and Dr. Jerry Jackson, a urologist from Sumter. Additionally, many new disciplinary commission members were added, bringing the total number to 36. We appreciate the service of all physicians involved in the Board's activities. As you know, the Board has many functions.

• In the area of licensure, the Board issued 691 permanent licenses last year, down from 754 the previous year. Of the new licensees, 107 are

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THE EXAMINER

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Board Members

President

3rd Congressional District

Roger A. Ray, M.D.

Anderson Area Medical Center
800 N. Fant Street

Anderson, SC 29261

FIRST TERM: 1/1/98 – 12/31/01

SECOND TERM: 1/1/02 – 12/31/05

Vice President

6th Congressional District

Vera C. Hyman, M.D.

P.O. Box 6166

Florence, SC 29502-6166

FIRST TERM: 1/1/96 – 12/31/99

SECOND TERM: 1/1/00 – 12/31/03

Secretary

Osteopathic, Elected-At-Large

Timothy J. Kowalski, D.O.

William S. Hall Psychiatric Institute

P.O. Box 202, Cottage C

Columbia, SC 29202

FIRST TERM: 1/1/97 – 12/31/00

SECOND TERM: 1/1/01 – 12/31/04

1st Congressional District

Robert H. Bowles, M.D.

Parkwood Orthopedic Clinic

1249 Savannah Highway

Charleston, SC 29407

FIRST TERM: 1/1/00 – 12/31/03

2nd Congressional District

Satish M. Prabhu, M.D.

Critical Health Systems

1410 Blanding Street, #1

Columbia, SC 29201

FIRST TERM: 1/1/01 – 12/31/04

4th Congressional District

Stephen R. Gardner, M.D.

Southeastern Neurological & Spine Institute, P.A.

20 Medical Ridge Drive

Greenville, SC 29605

FIRST TERM: 1/1/02 – 12/31/05

5th Congressional District

Jerry E. Jackson, M.D.

Sumter Urological Associates, P.A.

410 W. Wesmark Blvd.

Sumter, SC 29150

Elected-At-Large Member

Donald G. Gregg, M.D.

Greenville Memorial Medical Center

Emergency Room

701 Grove Road

Greenville, SC 29605

FIRST TERM: 1/1/02 – 12/31/05

Gubernatorial At-Large Member

Louis E. Costa, II, D.M.D., M.D.

Southeastern Facial Plastic Surgery

47 Calhoun Street

Charleston, SC 29401

FIRST TERM: 5/9/95 – 12/31/98

ECOND TERM: 1/1/99 – 12/31/02

Gubernatorial Lay Member

Susan C. Reynolds

c/o Alley Cat

222 Augusta Street

Greenville, SC 29605

FIRST TERM: 5/9/00 – 6/30/02

Board Staff

Board Administrator

John D. Volmer

Administrative Assistant to the Board Administrator

Carole Chauvin

Assistant Administrator, Licensing

Annette Disher

USMLE Exams and Limited Licenses/ Anesthesiologist's Assistant Licensing

Donna Howard

Physician Assistant / Respiratory Care Licensing

Brenda Eason

Acupuncturist Permits

Annette Disher

Assistant Administrator, Records and Compliance

Karen Newton

Assistant Administrator, Investigations

Henry Morgan

Licensure Verifications/Receptionist

Patt Browy

Data Coordinator

Kathy Combs

Board Acquires Three Members

In January 2002, three newly elected members of the S.C. Board of Medical Examiners began their terms of service. **Stephen R. Gardner, M.D.**, a neurosurgeon from Greenville is from the 4th Congressional District. **Donald G. Gregg, M.D.**, board certified in emergency medicine from Greenville is an at-large member. **Jerry E. Jackson, M.D.** a board certified urologist from Sumter is from the 5th Congressional District. The new members took over positions vacated by Dr. James G. Wallace of Greenville, Dr. James D. Whitehead, Jr. of Lexington, and Dr. Norman B. Clinkscales of Sumter.

New Law Allows Fifth Pathway Grads to Apply for S.C. Residency Programs

A legislative joint resolution of House Bill 4692 became law on May 2, 2002. This new law amending the S.C. Code of Regulations, R81-70, now allows those medical school graduates opting to use the 5th Pathway Program to apply for a Limited License for residency training programs in South Carolina. Residency training requires a Limited License in South Carolina. Prior to the passage of this legislation, 5th Pathway graduates could not apply for a Limited License in South Carolina and could not participate in residency training programs here.

The 5th Pathway refers to U.S. citizens who have completed their undergraduate training in the U.S., and have chosen to do their medical school training outside the United States or Canada. Upon successful completion of the medical school training, the graduates may opt for the 5th Pathway Program. This requires that they successfully complete an additional year of training at a designated hospital in the U.S. before applying for residency training.

'Just Say No' Still Applies: Doctors and Sexual Boundaries

The following is an excerpt from an article by Dr. Cynthia Playfair, an Austin, TX psychiatrist, that appeared in the Spring 2002 issue of the Texas State Board of Medical Examiners Newsletter.



Patients often seek therapy because of boundary issues; they just don't expect physicians to join in their problem, as Linda Weisberg said in 1994. Warmth and caring through a reassuring touch has its place in medicine. The reassuring touch of a physician just before surgery can have a powerfully therapeutic effect. However, as the great psychotherapy teacher, Elvin Semrad, said, "when you touch a patient, the therapy is over."

Defining sexual misconduct can be complicated. The circumstances in each case need to be understood within their context. There are cases of clear atrocities. There are also cases of good physicians using poor judgment at a particularly vulnerable moment. Each has a different prognosis for rehabilitation. Since we are all vulnerable to boundary violations, it behooves every physician to remain sensitive to and educated about this subject.

The prevalence rate of sexual misconduct in physicians is estimated at 6–10 percent, but this phenomenon is likely under-reported in physician surveys and by patients. It is believed that the number of false claims made by patients is very low. A 1992 study indicates that only 4–8 percent of patients report a doctor's sexual misconduct.

The 1996 AMA medical ethics code states: sexual contact that occurs concurrent with the physician–patient relationship constitutes sexual misconduct. The AMA also finds relationships between supervisors and trainees to be

unethical. In 1993, The American Psychiatric Association determined sexual activity with a current or former patient to be unethical.

It often takes years for patients to report physician sexual misconduct because of shame, guilt, fear or loyalty to the physician. The biggest obstacle is fear of being seen as crazy. There can also be a high degree of ambivalence with a loving protective attitude towards the physician.

Patients have the following avenues of recourse: complaining to ethics committees of hospitals or to societies or organizations to which the physician belongs; filing a civil malpractice suit; filing a criminal complaint; and/or reporting to the licensing board. Twenty percent of the costs to malpractice insurers involve sexual misconduct cases.

Medical boards are mandated with a unique and critical position in that they are the only agency that can interfere with a physician's license to practice medicine. Sanctions by professional societies, hospitals or even the legal system do not directly interfere with this ability. Boards face many challenges as they attempt to address this distinctly difficult issue including insufficient manpower and funding. They also face high volumes of cases to investigate and/or regulate and multiple appeal processes that can drag a case out to great length at great cost.

The doctor–patient relationship is a fiduciary relationship, meaning one person, the patient, trusts another person, the doctor, to act in the patient's best interest. When physicians use their privileged position of authority in the context of their emotional and physical proximity to the patient for self–gratification, there is inevitable harm to the patient. It is the physician, not the patient, who has an ethical code to uphold. It is simply part of good care to maintain strong boundaries with patients.

A Dangerous Physician, What Can I Do About It?

A physician becomes alarmed when he sees patients previously seen by Dr. X, who have received improper prescriptions, inadequate care, or treatment that could endanger their lives and who required hospital attention but were sent home by Dr. X. The physician asks a member of the Medical Board what he should do. He's concerned about the competency of the physician and the health and safety of the patients seen by him. Under the **Medical Practice Act, "Principles of Medical Ethics,"** Regulation 81–60 (B) states, "*A physician shall deal honestly with patients and colleagues, and strive to expose those physicians deficient in character or competence, or who engage in fraud or deception.*" (Emphasis added). In the interest of his profession and patient safety, the physician should report his/her concerns about Dr. X to the Board of Medical Examiners. "I don't want to get involved" benefits neither the medical profession nor the public. The physician needs to do the right thing.

President's Note continued from page 1

107 are graduates of international medical schools and 48 are doctors of osteopathy. This brings the total number of permanent licensed physicians in South Carolina to nearly 13,000. This was also a busy year in new licensure for other professionals overseen by the Board, namely PAs, RCPs, acupuncturists and the newly approved anesthesiologist assistants.

- In the area of policy development, several important actions were taken. First, related to the events of 9–11, the Board extended by one year the first audit period for required CME due to meeting cancellations and travel restrictions. Further, the Board adopted a new policy on academic licensure, published guidance for physicians regarding retirement, and adopted with minimal alteration the office-based surgery guidelines that were a topic of discussion at this meeting last year. Additionally, last year brought the enactment of the Internet prescribing regulation, which continues to be a hot topic nationally.

- In the area of discipline, the Board received 356 complaints, an increase of nearly 40 percent from the prior year. Overall last year, 143 complaints were dismissed, while 93 actions were taken, 33 of them being of a private nature. Of new complaints, 43 percent were related to allegations of substandard quality of care, 20 percent were related to allegations of unprofessional conduct, and the remaining 37 percent were related to an array of concern categories.

- In the area of communication, the Board's Web site was updated and revised to include licensee lookup capability. Further, public actions are available, as has been the case in the past through the mail. You might be surprised to know that we are currently receiving 70,000 hits per month on average, speaking loudly about the intense focus of the public on the credentials of their physicians.

All in all it was a busy year. However, the next year or two promise to be even busier. Many important issues are on the radar screen including the following:

1. Revision of both the medical practice act and the nurse practice act are required due to changes in the administrative procedures act. This will be a cumbersome task and has

already proven to be complicated and difficult, particularly in the area of scope of practice of advanced practice nursing. Discussions and debate continue in that regard.

2. Attempting to improve license portability for physicians between states while retaining high state specific standards.

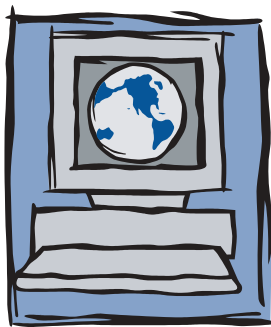
3. Consideration of moving the re-registration process online to improve timeliness, accuracy and efficiency.

4. Dealing with the numerous legislative initiatives to alter the scopes of practice of many different non-physician care providers.

5. Consideration of what role, if any, regulatory bodies such as the Board should play in furthering the many patient safety initiatives being put forth currently.

Lastly, I want to briefly mention an issue that has arisen in the past few weeks. Each year a healthcare industry watchdog group, the Public Citizen, publishes a report purporting to rank state medical boards based on data from the Federation of State Medical Boards. Basically, this report ranks boards according to a single issue, namely how frequently they severely discipline their licensees.

For many years South Carolina has ranked in the middle of the pack, typically in the mid 20s, but this year is listed as dropping to 47th. Disturbingly, the report goes on to say, "It is extremely likely that patients are being injured or killed more often in states with poor doctor disciplinary records than in states with consistent top performances." We know of no data to support this inflammatory assertion. Further, this narrow segment of medical board activity ignores many important factors, including initial screening of license candidates, education of licensees and communication with the public. As each of you know, in our state a board member meets every single new licensee face to face to set expectations and assist with identifying some of the pitfalls in practice. I know of no shift in philosophy or change in process at the Board so as to suspect that South Carolina patients are more at risk. Nonetheless, the Board will thoughtfully review this data, limited as it may be, in attempting continuously to improve our effectiveness in improving the quality of medical practice in our state.



Visit us on the web!

www.llr.state.sc.us/pol/medical

Staff is Your Responsibility

The Medical Board frequently receives complaints that arise from a breakdown in or a lack of communication between medical office staff and patients. For example, we had a patient report that a medical office manager insisted that the patient had no right to a copy of his/her medical record under any circumstances. The same office manager told a Board investigator she was completely familiar with the *Physicians' Patient Records Act* and would continue to refuse to provide patients with record copies. Obviously this manager was misinformed, so the patient filed a complaint against the physician. It is likely that the physician knew nothing of the patient's request or the manager's mistaken response. **You**, as the licensed physician, are responsible for the actions of your office staff regarding patient care and contact. **You** must ensure your staff is educated regarding statutes and regulations that affect your patient contacts. By doing so, you may save yourself the time and embarrassment of responding to a complaint and save the Board staff the time and effort of processing and investigating that complaint. Patients often see the conduct of your staff as a reflection of **you**. See if **you** can help develop a strategy for reducing these complaints.

New Statute Affects Athletic Team Physicians

On June 5, 2002, Governor Jim Hodges signed bill #5106 which adds a new statute to the S.C. Medical Practice Act. Statute 40-47-97 will allow physicians licensed and practicing in another jurisdiction, who are employed or designated as a "team physician" for an athletic team visiting the state for a specific athletic event, to treat the team members, coaches and staff of that team without requiring licensure in South Carolina. The "team physicians" do not have hospital or prescribing privileges in South Carolina and are restricted to treating only the team members, coaches and staff. The full text of the statute can be found on the Board's Web site, www.llr.state.sc.us/pol/medical.



We Need Your Help!

The Medical Board receives approximately 300 complaints annually. Each complaint is investigated. The majority of complaints are quality of care issues. As part of the investigation, patient, hospital and pharmacy records often need to be reviewed to determine if there is any validity to the complaint. **We need volunteer physicians in all specialties to review those records.** The Board pays \$100 per hour for reviewers. If you are willing to assist the Board and your profession by reviewing records, call Asst. Administrator Henry Morgan at (803) 896-4500 or write to Mr. Morgan at P.O. Box 11289, Columbia, SC 29211-1289.

S.C. Board of Medical Examiners 2003 Board Meeting Dates

Board Meeting Date

Feb. 3-5
May 5-7
August 4-6
Nov. 3-5

Agenda Closing Date

Jan. 10
April 11
July 11
Oct. 10

Final Orders and Other Actions

January 1, 2002 to present

Name Unpublished

Consent Order-January 7, 2002

Practiced respiratory care without a license. (*Private Reprimand and \$50 fine.*)

Name Unpublished

Consent Order-January 7, 2002

Practiced medicine after license had expired. (*Private Reprimand and \$35 fine.*)

Name Unpublished

Consent Order-January 7, 2002

Practiced medicine after limited license had expired. (*Private Reprimand and \$250 fine.*)

Name Unpublished

Consent Order- January 8, 2002

Practiced medicine after license had expired. (*Private Reprimand and \$40 fine.*)

Name Unpublished

Consent Order-January 9, 2002

Practiced medicine after license had expired. (*Private Reprimand and \$45 fine.*)

Taylor, Richard M., D.O.

Reno, NV

Order of Temporary Suspension-January 16, 2002

Physician's impaired physical or mental capability, indulgence in the use of alcohol and any other controlled substance constitutes a serious threat to the public health, safety or welfare. (*License to practice medicine in this state is temporarily suspended.*)

Name Unpublished

Final Order-February 4, 2002

Issued prescriptions on several occasions without a valid physician/patient relationship and documented medical justification. (*Private Reprimand and \$1,000 fine plus costs.*)

Brilla, Rebecca A., RCP

Easley, SC

Agreement to Relinquish License to Practice Respiratory Care-February 4, 2002

(*Relinquished forevermore her right to practice respiratory care in South Carolina.*)

Yates, William M., M.D.

Columbia, SC

Supplemental Order-February 17, 2002

Engaged in sexually inappropriate behavior directed toward his 18-year-old patient for whom he had prescribed medication

only days before the incident, while also consuming alcohol in physician's home. (*License reinstated, public reprimand, \$10,000 fine and terms and conditions on license.*)

Hayes, Edward E., M.D.

Conway, SC

Final Order-February 21, 2002

Entered a plea of guilty to an information in federal court on five counts of fraud through the U.S. Mail. (*Public reprimand, \$5,000 fine and \$83.06 costs.*)

Walls, Allan C., M.D.

Brownsboro, AL

Final Order-February 21, 2002

Was addicted to alcohol or drugs to such a degree as to render him unfit to practice medicine, as evidenced by his self-medication of controlled substances and his discipline in the State of Alabama. (*Public reprimand, \$1,000 fine, \$107.90 costs and terms and conditions on license.*)

Long, James Malcolm, III, M.D.

Wilsonville, AL

Final Order-February 22, 2002

Was convicted of a felony or other crime involving moral turpitude, as evidenced by his guilty plea to using a facility and means of interstate commerce, that is, a computer modem accessing an internet provider, to attempt to knowingly persuade, induce, and entice persons under 18 years of age to engage in sexual activity in violation of Title 18, United States Code, Section 2422 (b). (*Public reprimand, license indefinitely suspended and costs in the amount of \$192.42.*)

Kammer, Kenneth S., M.D.

Florence, SC

Order of Temporary Suspension - February 28, 2002

Failed to comply with the Board's Final Order dated October 17, 2000. (*License to practice medicine temporarily suspended.*)

Kammer, Kenneth S., M.D.

Florence, SC

Order of Conditional Reinstatement - March 4, 2002

Provided satisfactory explanation regarding his failure to comply with the Board's Final Order dated October 17, 2000, and has given assurances of his future compliance. (*License temporarily reinstated pending Final Order of the Board.*)

Roberts, Jimmy N., M.D.

Blountsville, AL

Final Order-April 4, 2002

Failed to adequately diagnose, treat, document medical history and physical condition, prepare a proper plan for the evaluation, management and monitoring of the patient, recognize obvious medical signs of a possible life-threatening illness and refer patient to a specialist when patient presented to physician on three separate occasions. (*Must provide Board*

with documentation of recertification in family practice within 30 days and shall undergo a psychiatric/psychological assessment within 60 days. Once above is completed, this matter shall be finalized by supplemental order.)

Shippel, Allan H., M.D.

Roswell, GA

Order of Temporary Suspension—April 10, 2002

Physician's addiction to drugs or alcohol to such a degree as to render him unfit to practice medicine constitutes a serious threat to the public health, safety or welfare. (*License to practice medicine in this state is temporarily suspended.*)

Name Unpublished

Consent Order—April 10, 2002

Practiced medicine after temporary license had expired.

(*Private Reprimand and \$250 fine.*)

Goust, Jean-Michel C., M.D.

Charleston, SC

Final Order—May 6, 2002

Failed to properly maintain medical records concerning two patients under his care. (*Public reprimand, \$500 fine and terms and conditions on license.*)

Omotunde, Olukayode S., M.D.

Park River, ND

Final Order—May 6, 2002

Failed to appropriately document in preoperative patient medical records, pelvic examinations and pap smears. (*Public reprimand.*)

Deonarine, Denis T., M.D.

Jupiter, FL

Order of Temporary Suspension—May 13, 2002

Order of Emergency Suspension of License issued by Florida Department of Health, based upon the Respondent's prescribing, dispensing, administering, mixing or otherwise preparing a legend drug, including any controlled substance, other than in the course of his professional practice. (*License to practice medicine in this state is temporarily suspended.*)

Name Unpublished

Consent Order—May 3, 2002

Practiced respiratory care without a license. (*Private Reprimand and \$25 fine.*)

mand and \$25 fine.)

Whitley, William H., D.O.

Orangeburg, SC

Final Order—May 17, 2002

Called in prescriptions in the name of his nurse for his own use and called in prescriptions for himself without the knowledge or consent of the doctor supposedly prescribing the medicine. (*Public Reprimand, \$5,000 fine, \$85.55 costs, and terms and conditions on license.*)

Campbell, Treadwell, M.D.

Mullins, SC

Final Order—May 17, 2002

Prescribed excessive amounts of controlled substances to patients; failed to keep written medical records justifying the course of treatment; treated patients without medical justification; failed to treat patients addicted to controlled substances; and failed to apply and advance scientific knowledge and make relevant information available to patients and colleagues. (*Public Reprimand, \$3,000 fine, \$9,062.84 costs, and terms and conditions on license.*)

Name Unpublished

Final Order—May 17, 2002

Used a false or fraudulent statement in a document connected with the practice of medicine. (*Private Reprimand, \$1,000 fine and \$68.80 costs.*)

Name Unpublished

Final Order—May 17, 2002

(*Case dismissed.*)

Name Unpublished

Order—May 17, 2002

(*Must remain under terms and conditions of previous Private Agreement.*)

This report is only a brief summary of these matters. It does not purport to be a complete account of the Board's findings. The Board's complete factual and legal conclusions are contained in its Orders. These are available pursuant to the Freedom of Information Act is on the Board's Web site or by writing to the Board at P. O. Box 11289, Columbia, SC 29211-1289. A research and copying fee will be charged for each written request.

Change of Address? It's the Law!

A reminder to all licensees: The S. C. Code of Laws, Ann., Title 40, Chapter 47, § 40-47-450 states, in part, "A physician who changes the address of his usual place of practice shall notify the Board within thirty days thereafter." It is imperative that you notify the Board of any change of address, including your mailing address. If you fail to do this you may not receive annual re-registration forms and subsequently incur a fine. It is not the duty of the Board staff to hunt you down. **Notification must be in writing.**



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South Carolina Department of Labor, Licensing and Regulation
www.llr.state.sc.us/pol/medical

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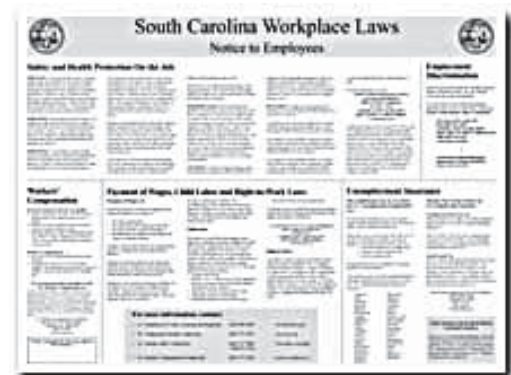
Employer Beware!

State-required posters that involve workplace laws are available **free** of charge. You do not have to pay for them.

The posters – now available in an all-in-one poster format – can be obtained from the S.C. Department of Labor Licensing and Regulation, S.C. Employment Security Commission, S.C. Human Affairs Commission or S.C. Workers' Compensation Commission.

The all-in-one-poster includes:

- Safety and Health Protection on the Job (the OSHA poster)
- Employment Discrimination
- Workers Compensation
- Unemployment Insurance
- Payment of Wages, Child Labor and Right-to-Work Laws



If you want to place an order or have questions, contact one of the following:

- LLR, (803) 896-4380, or by email at fosterb@mail.llr.state.sc.us.
- Employment Security, (803) 737-2474
- Human Affairs, (803) 737-7800 or 1-800-521-0725
- Workers Compensation, (803) 737-5700