



Arkansas State Medical Board
2100 Riverfront Drive
Little Rock, AR 72202-1747

Issue Number Forty-Two
Summer 2009

NEWSLETTER

Peggy Pryor Cryer

Executive Secretary
 2100 Riverfront Drive
 Little Rock, AR 72202-1747
 501-296-1802

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Fayetteville, AR

LEGAL COUNSEL

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 211 Spring Street
 Little Rock, AR 72201
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THE BOARD HAS RECEIVED A COMPLAINT....

By Joseph M. Beck, M.D., Vice Chairman

Thus starts a letter to physicians that no one wants to receive but must somehow address. The State Medical Board receives hundreds of complaints from patients and families directed against physicians and their staff each year and by statute must investigate and respond. Many fine physicians throughout the state, including some Medical Board members, have had this experience. The complaints received cover a wide variety of subjects and alleged actions, and each must be answered by the physician. They run the gamut from unrealistic expectations to criminal behavior and your peers on the State Medical Board, practicing physicians aware of the stresses and responsibilities of practice, are charged by law with determining which merit further Board consideration and which will be taken for information only

with no further action needed. Most fall in the latter category.

Generally the letter informing the physician that a complaint has been received asks for a response to the complaint. Bear in mind that at the end of the process the complainant receives a copy of the Board's response as well as the physician's. It is best to avoid inflammatory or accusatory language and becoming overly defensive. Simply relate your version of the events in question, briefly and succinctly, with as little editorial comment or unnecessary derogatory information as possible, including appropriate medical records. People complain because their trust has been violated, a boundary has

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HIPAA Requirements as Compared with Collaborative Agreements Established by Arkansas Law

Researched by William H. Trice, III, attorney for the Arkansas State Medical Board

The Arkansas State Medical Board was presented with a question as to whether the Federal HIPAA laws on privacy override and govern the Collaborative Practice Agreements that are set up between advanced practice nurses and physicians as established by law.

A.C.A. §17-87-310 authorizes the Arkansas State Board of Nursing to grant a Certificate of Prescriptive Authority to an advanced practice nurse. This advanced practice nurse must establish a Collaborative Practice Agreement with a physician who is licensed under the Arkansas Medical Practices Act. The statute goes on to state that a Collaborative Practice Agreement shall include but not be limited to:

1. The availability of the collaborating physician for consultation or referral or both.
2. Methods of management of the collaborative practice, which shall include protocols for prescriptive authority.
3. Coverage of the healthcare needs of the patient in the emergency absence of the advanced practice nurse or physician, and
4. Quality Assurance.

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BOARD ACTIONS & LICENSE ADJUSTMENTS

- Gann, Linda Beth, PA (PA-323)
Hot Springs Village, AR
- Probation, 6/5/2009
 - Emergency Order of Suspension, 4/22/2009
- Jones, Quitman Warde, M.D. (R-4318)
Memphis, TN
- Emergency Order of Suspension, 7/20/2009
- Kauffman, Paul David, M.D.
(C-5415)
Salem, AR
- Suspended, 6/4/2009
- Morgan, Bobby Sturdivant, LRCP
(RCP-3004)
Fayetteville, AR
- Emergency Order of Suspension, 6/26/2009
- Simpson, Todd Richard, D.O.
(E-0141)
Fayetteville, AR
- Revoked/Stayed, 6/16/2009
- Tate, Sidney Wayne, M.D. (R-2059)
Searcy, AR
- Revoked/Stayed, 6/5/2009

ARKANSAS STATE MEDICAL BOARD

2009 Meeting Dates

August 6-7, 2009
October 1-2, 2009
December 3-4, 2009

*The Board will hold "called"
meetings when necessary.

Meetings will be held in the
W. Ray Jouett, M.D. Conference Room
at

2100 Riverfront Drive
Little Rock, Arkansas

Meeting dates are subject to change.

PROFILE OF A BOARD MEMBER

ROGER HARMON, P.D.

Mr. Harmon received his Bachelor of Science degree in Pharmacy in 1964 from the University of Tennessee in Memphis. After graduation Mr. Harmon owned and operated Central Drug in Jonesboro for 10 years before going to work for St. Bernard's Medical Center as Director of Pharmacy in 1974. He stepped down from that position in October 2003, but remains a staff pharmacist at the hospital.

Mr. Harmon lives in Jonesboro with his wife, Jo Anne. They have three

children, two of whom are pharmacists and one is a certified public accountant. In his spare time Mr. Harmon enjoys tennis, golf and playing with his grandchildren.

Mr. Harmon is the Senior Citizen Representative on the Arkansas State Medical Board. Governor Mike Beebe appointed him to the Board in January 2008 and his term expires December 31, 2013.

HIPAA Requirements as Compared with Collaborative Agreements Established by Arkansas Law

Researched by William H. Trice, III, attorney for the ASMB (Continued)

If the Arkansas State Board of Nursing approves the collaborative practice agreement and the application that has been submitted by the advanced practice nurse, the Nursing Board may grant a Certificate of Prescriptive Authority to the advanced practice nurse, so that the individual may prescribe schedule III through V drugs.

A.C.A. §17-87-102 defines Collaborative Practice Agreement as follows:

"A written plan that identifies a physician who agrees to collaborate with an advanced practice nurse in the joint management of the health care of the advanced practice nurse's patients, and outlines procedures for consultation with or referral to the collaborating physician or other health care professionals as indicated by a patient's health care needs."

Title 45, Section 160.203 of the Code of Federal Regulation governs HIPAA. It basically states that the HIPAA will override state laws except when:

"If the state law for purposes of serving a compelling need related to public health, safety or welfare, and if a standard, requirement or implementation specification under Part 164 of this subchapter is at issue, if the Secretary determines that the intrusion into privacy is warranted when balanced against the need to be served."

Title 45 further gives the States the authority to override the HIPAA requirements if the provision of State law:

"has as its principle purpose the regulation of the manufacture, registration, distribution, dispensing or other control of controlled substances, or that is deemed a controlled substance by State law."

In summary:

1. Collaborative agreements, as set up by Arkansas law, are done to enable advanced practice nurses to prescribe scheduled medication if they have a collaborative agreement with a physician, and thus the collaborative agreement and that relationship overrides the HIPAA requirements.
2. The Collaborative Agreement required of an advanced practice nurse, as set up by State law, is a safety factor established by legislature, which in and of itself would override the HIPAA requirements.
3. Any physician who is in a collaborative agreement with an advanced practice nurse must have quality control ability, pursuant to A.C.A. §17-87-310. The physician would have to have access to medical records in order to comply with the quality assurance requirements of the statute.

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By Joseph M. Beck, M.D., Vice Chairman
(Continued from cover page)

been crossed, disability denied, or pain medicine over or under prescribed. All must be answered.

After the response is received by the Board staff, it becomes a numbered item for consideration at the next meeting. Although the meetings are open to the public, the names of the physicians involved are not spoken aloud during the deliberations, although the circumstances may be. At the end of a generally short discussion, a vote is taken by the Board. Possible Board actions at that point include taking that complaint for information only (most commonly done), sending for the physician to provide a more in depth discussion of the problem, or in the case of a potentially dangerous or impaired physician, taking action against his or her license. The Board understands the pressures incumbent on Arkansas physicians as they care for their patients, and if at all possible gives the doctor the benefit of the doubt.

If no further action is required, the complainant receives correspondence from the Board to that effect. They are informed that the Board can take action against a license only if there has been gross negligence or ignorant malpractice. The key words here are 'gross' and 'ignorant' and they are defined in the Medical Practices Act, which every physician is required to read. Sometimes the complainant sends a rebuttal, and occasionally a complaint is re-evaluated but generally this concludes the matter. A baseless or frivolous complaint is not reported to the insurance companies, data bank or public, although there is a record kept for trending purposes since frequent or multiple complaints could be a harbinger of other issues.

COMING IN LATE FALL

Licensure and CCVS Workshop

Location: Arkansas State Medical Board
Times/Dates: To be Announced—Watch the website!

The ASMB will host a half-day workshop on the Licensure and CCVS programs. Each session will have limited seating. The sessions will include:

Arkansas Medical Licensure - Licensing session will provide detailed step-by-step information on the license application process from how to apply and ending with the rollover of information into the Board's credentials verification organization (CCVS). It will include requirements set by law and/or regulations and policies set by the Board. This session will be of particular interest to anyone assisting physicians with the license application process or involved in physician recruitment.

Centralized Credentials Verification Service (CCVS) - The 2nd session will pick up from the granting of a license to release to the CCVS customer and beyond, into the recertification process. It will cover every phase of the CCVS from history and purpose to documentation and statutory requirements. How to maneuver through the online system will also be part of this session. Anyone involved in physician credentialing and utilizing the CCVS system will want to attend.

Handouts will be provided for both sessions. There will be question and answer periods after each. **REGISTRATION WILL BE LIMITED!!!**

OFFICIAL BOARD APPOINTMENTS

Governor Mike Beebe recently appointed two new members to the Arkansas State Medical Board. We welcome these new members:

- SYLVIA D. SIMON, M.D. is a family medicine physician in Monticello and is certified by the American Board of Family Medicine. Her term expires December 31, 2014. Dr. Simon replaces C. E. Tommey, M.D.
- JOHN E. HEARNSBERGER, II, M.D. practices cardiovascular surgery in Nashville. He is certified by the American Board of Thoracic Surgery. His term expires December 31, 2014. Dr. Hearnberger's position is a new member position created by Act 1273 of 2009. This is an At-Large position.

MEMORIAM FOR PAST BOARD MEMBER

Rhys A. Williams, M.D., a past member of the Arkansas State Medical Board, died earlier this year. Dr. Williams served on the Board from 1988 to 1997. His input and dedication to protecting the citizens of Arkansas was invaluable. Dr. Williams practiced general surgery for 32 years in North Arkansas. The Board expresses their sympathy for the loss of this outstanding physician.

PHYSICIAN ASSISTANT ADVISORY COMMITTEE

2009 Meeting Dates

August 5, 2009
September 30, 2009
December 2, 2009

Meeting dates are subject to change.

Julia Feazell
PA Licensing Coordinator
Phone: (501) 296-1955
Fax: (501) 296-1805
jdf@armedicalboard.org

RESPIRATORY COMMITTEE

2009 MEETING DATES

September 11, 2009
December 11, 2009

Contact Mikki Hughes
mikkih@armedicalboard.org
For RT - Any course approved by the AARC, NBRC or the ASRC is automatically approved for continuing education with the amount of CEU's they award. No pre-approval is necessary.

We're on the WEB!!!

Main Phone: (501) 296-1802
Regulatory Fax: (501) 296-1805
CCVS Fax: (501) 296-1806
Accounting/Personnel Fax: (501) 603-3552
Licensing Fax: (501) 296-1972
License Renewals Fax: (501) 603-3555
QA/CS Fax: (501) 603-3555

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2100 Riverfront Drive
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Mission of the Arkansas State Medical Board

Protecting the health, safety, and welfare of the people of the State of Arkansas with the goal that all citizens be provided with the highest quality health care.



WEB INFORMATION CENTER

www.armedicalboard.org

**MEDICAL PRACTICES ACT
BOOKLETS**
\$15 PER COPY or free
from the web site at
www.armedicalboard.org

COPIES OF ALL BOARD REGULATIONS ARE INCLUDED IN THE MEDICAL PRACTICES ACT BOOKLET. It is the physician's responsibility to read and comply with these rules.

Online Directory

Printed CD-ROM directories are no longer available

All actively licensed Arkansas physicians, Respiratory Therapists, Occupational Therapists, Physician Assistants and Radiology Practitioner Assistants may be queried in the Online Directory. To purchase data files of these practitioners, please visit our Data Portal. Payment is via secured online order form with Visa, Mastercard only.

ATTENTION!

Change of Address Form is now available on the ASMB Web Site:

<http://www.armedicalboard.org/support/sub-Downloads.asp>

Please FAX: (501) 603-3555

E-Mail: Licensing@armedicalboard.org

or Mail to:

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