



**Arkansas State Medical Board**  
**1401 West Capitol Avenue, Suite 340**  
**Little Rock, AR 72201-2936**

**Issue Number Sixty-Four**

**Spring/Summer 2015**

# NEWSLETTER

**Peggy Pryor Cryer**  
*Executive Secretary*  
 1401 West Capitol Avenue,  
 Suite 340  
 Little Rock, AR 72201-2936  
 501-296-1802

**Board Members:**

**Joseph M. Beck, II, M.D.**  
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 Little Rock, AR

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 Pine Bluff, AR

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 North Little Rock, AR

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 Searcy, AR

**William F. Dudding, M.D.**  
 Fort Smith, AR

**John E. Hearnberger, II, M.D.**  
 Nashville, AR

**Veryl D. Hodges, D.O.**  
 Jonesboro, AR

**Mr. Larry D. "Buddy" Lovell**  
 Marked Tree, AR

**Scott Pace, Pharm.D., J.D.**  
 Little Rock, AR

**John H. Scribner, M.D.**  
 Salem, AR

**John B. Weiss, M.D.**  
 Fayetteville, AR

**Legal Counsel:**

**Kevin O'Dwyer**  
 211 Spring Street  
 Little Rock, AR 72201  
 501-372-4144

## Telemedicine Senate Bill -133 now Act 887

During the 2015 legislative session, the subject of telemedicine and how it could be used became a strenuously contested issue with at least four telemedicine bills being filed. Ultimately, the bill filed by Senator Cecile Bledsoe, Senate Bill 133 passed is now Act 887. The most significant portion of SB133 as it pertained to out-of-state telemedicine provider companies is the provision that defined the establishment of a patient-physician relationship as an "in-person" physical and history. This is significant because the bills that were being supported by large out-of-state telemedicine companies allowed for the establishment of a patient-physician relationship via audio/visual mediums or by audio only. According to leading physicians in telemedicine, this model re-defined what telemedicine is or was intended to be.

The Board has reviewed various models of telemedicine for more than five years. Nearly all models allow for the establishment of the patient-physician relationship via telephone contact only. The Board has consistently rejected these models as not being a safe model for patients. In addition, the Board has kept a close eye on what other states are doing in the area of telemedicine. Based on various surveys, the information the Board has gathered shows that nearly all states, with the exception of a handful, have same or similar rules regarding telemedicine as the Arkansas State Medical Board.

The Board however, does recognize the advances in technologies and the need to provide healthcare to underserved areas of the state. During the April Board meeting, the Board voted to establish a Telemedicine

Committee to explore safe and effective uses of telemedicine in response to SB133/Act 887. In the coming months, the Committee will form and discuss the various potential uses and abuses of telemedicine in an effort to form an advisory opinion to provide the Board with guidelines for any needed rule and/or policy changes regarding telemedicine. ♦

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## Arkansas State Medical Board 2014 Annual Report

The 2014 members and officers of the Arkansas State Medical Board are as follows:

Joseph M. Beck, II, M.D. Chairman; Sylvia D. Simon, M.D., Vice-Chairman; Bob E. Cogburn, M.D., Secretary; Harold B. Betton, M.D., Treasurer; Omar T. Atiq, M.D.; Stephen L. Cathey, M.D.; Jim C. Citty, M.D.; William F. Dudding, M.D.; John E. Hearnberger, II, M.D.; Veryl D. Hodges, D.O.; Larry D. "Buddy" Lovell; Scott Pace, Pharm.D., J.D.; John H. Scribner, M.D. and John B. Weiss, M.D.

The Board met bimonthly and addressed complaints, hearings, and other pertinent business affecting health care in the State of Arkansas.

### 2014 Statistics

<u>2014 Licensing Statistics</u>		<u>Complaint Allegations (including investigations)</u>	
Medical Doctors and Doctors of Osteopathy Licensed	606	Advertising	2
Medical Doctors and Doctors of Osteopathy (total)	9587	APN Collaborating Physician Issues	1
Medical Doctors and Doctors of Osteopathy (in state)	6382	Attestation/Renewal Affirmative Answers	17
Occupational Therapists Licensed	102	Monitoring Issues	6
Occupational Therapists (total)	1371	Behavior/Attitude	15
Occupational Therapy Assistants Licensed	92	Billing/Insurance Issues	17
Occupational Therapy Assistants (total)	474	Board Actions Taken by Other States	11
Physician Assistants Licensed	44	Criminal Allegations	5
Physician Assistants (total)	293	Lack of Communication or Miscommunication	2
Respiratory Care Therapists Licensed	118	CME/CEU Issues	1
Respiratory Care Therapists (total)	1970	Dissatisfaction with Treatment/Procedure	59
Radiologist Assistants Licensed	3	HIPAA Issues	2
Radiologist Assistants (total)	6	Hospital Reporting	4
Radiology Practitioner Assistants (total)	4	Inmate Allegations	6
Withdrawn Applications	18	Inappropriate Prescribing	23
		Lack of Attention to Medical Needs	44
		Malpractice Regulation 23	22
		Medical Records – Failure to Provide	16
		Medical Records – Discrepancy	6
		Misdiagnosis	6
		Miscellaneous	24
		Over-Prescribing/Over-Testing	25
		Patient felt Offended/Violated by Physician	1
		Patient Abandonment	1
		Doctor Refuses to Prescribe/Refill Pain Meds	4
		Didn't/Won't Comply with Patient's Request to Complete Paperwork	1
		Staff-Generated Issues	8
		Self-Prescribing or Prescribing to Family	2
<b><u>Summary of Board Proceedings for 2014</u></b>			
Individual Discussions and Issues (total)	508		
Complaints (including investigations and other issues involving licensed practitioners)	385		
Issues (Topics that affect the Board)	123		
<b><u>2014 Board Actions</u></b>			
Suspension	16		
Revocation	1		
Revocation (stayed)	2		
Surrendered	2		
Reprimand	2		
Consent Orders	13		

## Arkansas State Medical Board 2014 Annual Report *(continued)*

## Arkansas Human Heartbeat Protection (Act 301 of 2013)

### Complaint Allegations (including investigations)

*(continued)*

Sexual or Romantic Relationship	4
Telemedicine	1
Terminated Patient	16
Lawsuit Filed Against the Board	1
Licensure Issue	14
Regulation 35 Reporting	1
Update	17

### New Regulations During this Calendar Year

Regulation 35 – Concerning Office-Based Surgery

Regulation 36 – Testing for Heartbeat in Unborn Children

### Amended Regulations During this Calendar Year

Regulation 6 – Renewal Fee Increase for Occupational Therapists

Regulation 10 – Renewal Fee Increase for Respiratory Care Practitioners

Regulation 28 – Renewal Fee Increase for Educational License

Regulation 29 – Renewal Fee Increase for Radiologist Assistants/Radiology Practitioner Assistants

Regulation 3 – International Graduate License Requirements

Regulation 14 – Medical Licensure Requirements

To review these regulations in their entirety, go to our website, [www.armedicalboard.org](http://www.armedicalboard.org), go to Forms and Publications and click on Medical Practices Act. ♦



**Check it out!**



During the 2013 Legislative Session, the Arkansas General Assembly passed Act 301, titled the Arkansas Human Heartbeat Protection Act, now codified at Ark. Code Ann. § 20-16-1301 through 1307. The Act required the Arkansas State Medical Board to enact rules and regulations regarding the requirements in the Act. Subsequently, Louis Jerry Edwards, M.D. and Tom Tvedten, M.D. on behalf of themselves and their patients filed a lawsuit in the United States District Court in Arkansas requesting, in essence, that the Court find the Act unconstitutional based on *Roe v. Wade* and subsequent cases involving attempts to outlaw abortion. The Arkansas State Medical Board was named as the Defendant in that case due to the requirement of the Board to enact a regulation. On March 14, 2014, the Court struck part of the Act as unconstitutional and upheld a portion governing testing for heartbeat in unborn children. The Attorney General, representing the Board in the Federal Court case, filed an appeal to the 8th Circuit Court of Appeals on April 11, 2014. Prior to the filing of the appeal, the Attorney General received assurances from legislators that the Medical Board's budget would not be impacted by an award of attorney's fees for the underlying case in District Court, or for any attorney's fees awarded for the appeal. On June 9, 2014, the District Court entered an attorney's fee award in favor of the Plaintiff in the amount of \$65,580 plus costs of \$3,445.45. In December 2014, the Board, pursuant to Act 301, passed Board Regulation 36.

During the 2015 Legislative Session, an appropriation bill was filed and passed by the Joint Budget Committee to amend the Board's biennial Operating Budget that allows payment from the Board's funds of up to \$200,000 to pay the Plaintiff's attorney fees for the District Court as well as any fees associated with the Appeal.

The case before the 8th Circuit has been fully briefed and oral arguments were made in January 2015. The Board is currently awaiting the decision of the 8th Circuit. Once the 8th Circuit rules, either side may file an appeal to the United States Supreme Court. ♦

## ASMB/CCVS Workshop!

The Arkansas State Medical Board and Centralized Credentials Verification Service (CCVS) are planning a workshop on Friday, May 22, 2015. THIS WORKSHOP IS FOR YOU if you are a CCVS customer user, new credentialing staff, staff wanting a refresher course or physician office staff involved with licensing or credentialing through the ASMB/CCVS. Registration will open online 30 days prior to May 22nd. Payment will be online and only by credit card. No call in registrations will be accepted. Box lunches will be provided. Please email [support@armedicalboard.org](mailto:support@armedicalboard.org) if you have any questions and reference "WORKSHOP" in the subject line. Please keep monitoring the ASMB and CCVS websites for Open Registration announcements. There will be a limited number of seats available so get your registration in as quickly as possible. ♦

## Board Passes Regulation 36 Regarding Testing for Heartbeat in Unborn Children

**At the December 2014 meeting, the Arkansas State Medical Board adopted Regulation 36 regarding testing for heartbeat in unborn children. Act 301 of 2013 required the Medical Board to promulgate the regulation. The effective date is to be determined upon legislative approval. Monitor the effective date through the Board's website, [www.armedicalboard.org](http://www.armedicalboard.org). The regulation follows:**

Act 301 of 2013 codified in A.C.A. §20-16-1303

A person authorized to perform abortions under Arkansas law shall not perform an abortion on a pregnant woman before the person tests the pregnant woman to determine whether the fetus that the pregnant woman is carrying possesses a detectible heartbeat.

A person authorized to perform abortions under Arkansas law shall perform an abdominal ultrasound test necessary to detect a heartbeat of an unborn human individual according to standard medical practice, including the use of medical devices as determined by standard medical practice.

Tests performed pursuant to Ark. Code Ann. §20-16-1303 (b)(1) shall be:

Based on standard medical practice for testing for the fetal heartbeat of an unborn human individual which testing includes an abdominal ultrasound test necessary to detect a heartbeat of an unborn human individual according to standard medical practice, including the use of medical devices as determined by standard medical practice;

A test for fetal heartbeat is not required in the case of a medical emergency; and

The physician shall obtain, based on available medical evidence, including testing and physical examination, the statistical probability of bringing an unborn human individual to term based on the gestational age of the unborn human individual possessing a detectible heartbeat.

If a heartbeat is detected during the test required pursuant to this Rule, the person performing the test shall inform the pregnant woman in writing:

That the unborn human individual that the pregnant woman is carrying possesses a heartbeat;

Of the statistical probability of bringing the unborn human individual to term based on the gestational age of the unborn human individual possessing a detectible heartbeat; and

If a heartbeat has been detected, the pregnant woman shall sign a form acknowledging she has received the information required under Ark. Code Ann. §20-16-1303(d). ♦

## PA Committee Welcomes New Member & Re-Appointee

The Physician Assistant Advisory Committee welcomes Timothy Irizarry, PA as the new physician assistant member of the Arkansas State Medical Board's Physician Assistant Advisory Committee. Mr. Irizarry is a graduate of Harding University. He served as the Chairman of the Governmental Affairs Committee of the Arkansas Academy of Physician Assistants.

The Physician Assistant Advisory Committee also congratulates Ms. Stacie Smith on her re-appointment to the Committee. Both appointments are three year terms. ♦

# ATTENTION!!

## Expert Reviewers Needed

The Board is searching for qualified medical reviewers in various specialties. The reviewer would review a case and provide the Board with a written report of his/her findings in regard to the standard of care as it relates to gross negligence or ignorant malpractice referenced in the Arkansas Medical Practices Act. Gross negligence is defined as carelessness or recklessness to a degree that shows utter indifference to the consequences that may result or an extreme departure from the ordinary standard of care.

If the expert reviewer believes the allegation rises to the standard of gross negligence, he/she will be required to testify at the disciplinary hearing or provide other related professional opinions. The Board reimburses reviewers \$100.00 per hour for an expert review and \$100.00 for testifying at a disciplinary hearing. Although the reimbursement rate allowed seems insignificant, these expert reviews are very important to the monitoring of your profession.

In addition, the Board operates under specific time constraints, which requires a commitment by the expert to comply with the Board's deadlines.

If you are interested in becoming an expert reviewer for the Board, please send your curriculum vitae and letter of intent to:

Peggy Pryor Cryer, Executive Secretary  
Arkansas State Medical Board  
1401 W. Capitol Avenue, Suite 340  
Little Rock, AR 72201



### **Board Passes Amendments to Regulation 6 Governing Occupational Therapy**

At the February 2015 meeting, the Arkansas State Medical Board passed amendments to Regulation 6 governing occupational therapists and occupational therapy assistants. The changes include updated language to reflect current terminology in the field of occupational therapy, clarification of the supervision of occupational therapy assistants, and guidelines to document supervision with a sample format. The effective date is to be determined upon legislative approval. Monitor the effective date through the Board's website, [www.armedicalboard.org](http://www.armedicalboard.org). To review Regulation 6 in its entirety, go to Forms and Publications on the Board's website. ♦

### **Board Passes Amendment to Regulation 2.8 (Physician/Patient Relationship)**

At the February 2015 meeting, the Arkansas State Medical Board passed an amendment to Regulation 2.8 concerning requirements for establishing a physician/patient relationship. The change allows an exception to the regulation in regard to the administration of vaccines containing tetanus toxoid or inactivated influenza vaccines. The effective date is to be determined upon legislative approval. Monitor the effective date through the Board's website, [www.armedicalboard.org](http://www.armedicalboard.org). To review Regulation 2.8 in its entirety, go to Forms and Publications on the Board's website. ♦

### **Board Passes Amendments to Regulations 3 and 14 Regarding Licensure Requirements**

At the December 2014 meeting, the Arkansas State Medical Board passed amendments to Regulation 3 governing unrestricted licensure for graduates of foreign medical schools and Regulation 14 examination requirements for physicians. Changes were made removing the time limit in which all steps of the medical licensing exam must be completed. The maximum number of attempts allowed to pass each step of the licensing exam did not change. The effective date is to be determined upon legislative approval. Monitor the effective date through the Board's website, [www.armedicalboard.org](http://www.armedicalboard.org). To review these regulations in their entirety, go to Forms and Publications on the Board's website. ♦

### **Scheduled Board Meeting Dates for the Arkansas State Medical Board**

June 4-5, 2015  
August 6-7, 2015  
October 1-2, 2015  
December 3-4, 2015

The agenda for each meeting will be posted online 1 week prior to each meeting on Wednesday by 4:00 pm.

The Board will hold "called" meetings when necessary.

Meetings will be held in the Board Room at  
1401 West Capitol Avenue, Suite 340  
Little Rock, Arkansas

### **Scheduled Allied Healthcare Meetings**

#### **Respiratory Care Examining Committee**

May 13, 2015  
September 9, 2015  
November 4, 2015

#### **Physician Assistant Committee**

June 3, 2015 at 2:00 PM  
August 5, 2015 at 2:00 PM  
September 30, 2015 at 2:00 PM  
December 2, 2015 at 2:00 PM

#### **Occupational Therapy Examining Committee**

July 13, 2015  
November 16, 2015

Dates and times of meetings are subject to change.

### **Other Scheduled Meetings**

#### **Pain Management Review Committee**

June 18, 2015  
September 17, 2015  
December 17, 2015

Dates and times of meetings are subject to change.

**Board Actions & License Adjustments**  
**10/4/2014 through 5/1/2015**

AHMAD, Mahmood, M.D. (E-1687)  
Sherwood, AR  
Consent Order, 2/24/2015

BALL, Charles William, Jr., M.D. (C-5265)  
England, AR  
Emergency Order of Suspension, 2/26/2015

BERTRAM, Ronald Jon, M.D. (E-3360)  
Fayetteville, AR  
Surrendered 12/5/2014  
Emergency Order of Suspension, 10/27/2014

CASILLAS, Miguel Agustine, M.D. (R-3941)  
North Little Rock, AR  
Consent Order, 3/23/2015

EPPERSON, Andrea E., LRCP (RCP-0679)  
Conway, AR  
Emergency Order of Suspension, 4/27/2015

FADUL, Rafid A., M.D. (E-8470)  
Cleveland, OH  
Surrendered, 10/10/2014

FURR, David Wayne, D.O. (E-3777)  
Springdale, AR  
Returned to Active, 4/17/2015  
Emergency Order of Suspension, 1/13/2015

GONZALES, Cathryn Jean, M.D. (E-2921)  
Magnolia, AR  
Consent Order, 3/2/2015

JUMPER, Benjamin Jerimiah, M.D. (E-6711)  
Palestine, AR  
Revoked/Stayed, 10/16/2014

KRANNICHFELD, Jon Michael, M.D. (C-4949)  
Rogers, AR  
Emergency Order of Suspension, 5/1/2015

LAMOUREAUX, Donald Wayne, D.O. (E-2759)  
West Plains, MO  
Emergency Order of Suspension, 2/9/2015

MIZES, Craig Britt, M.D. (E-5584)  
Russellville, AR  
Revoked/Stayed, 4/10/2015  
Emergency Order of Suspension, 12/29/2014

PUEN, Roy LaMadrid, M.D. (E-0602)  
Hot Springs, AR  
Consent Order, 2/9/2015

SALARD, Greg Alan, M.D. (E-4681)  
Wrangell, AK  
Emergency Order of Suspension, 12/29/2014

SCOTT, William Patrick, M.D. (E-1903)  
Dardanelle, AR  
Revoked/Stayed, 12/5/2014

STEPHENS, Kenneth Gregory, M.D. (E-6876)  
Shreveport, LA  
Consent Order, 1/5/2015  
Returned to Active, 12/5/2014  
Emergency Order of Suspension, 10/29/2014

SWONGER, Darin Lyn, M.D. (E-8135)  
Midway, AR  
Revoked/Stayed, 3/2/2015

TOLLETT, Michael Hines, D.O. (E-2136)  
Walters, OK  
Emergency Order of Suspension, 1/12/2015

WARD, Thomas Marshall, M.D. (N-7806)  
Little Rock, AR  
Surrendered, 2/6/2015  
Consent Order, 11/14/2014

WILLIAMS, Mark Courtney, M.D. (E-2733)  
Mountain Home, AR  
Consent Order, 12/23/2014  
Returned to Active, 12/5/2014  
Emergency Order of Suspension, 10/28/2014

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**ATTENTION!**

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

**<http://www.armedicalboard.org/forms.aspx>**

**Please FAX: (501) 603-3555**

**E-Mail: [support@armedicalboard.org](mailto:support@armedicalboard.org) in .pdf only**

**or Mail to:**

**Arkansas State Medical Board  
1401 West Capitol Avenue, Suite 340  
Little Rock, AR 72201-2936**

**Change of Address may be completed online with a licensee account.**