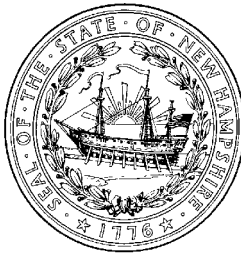


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New Hampshire Board of Medicine

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NEWSLETTER

News Editor: Penny Taylor, Administrator

SUMMER, 2004

Recent Changes to the Board:

The Board welcomes Paul J. Scibetta, Jr., D.O. to the Board. Governor Benson appointed Dr. Scibetta to the Board on July 28, 2004 to replace Wassfy M. Hanna, M.D., whose term had expired. Dr. Scibetta is an orthopedic surgeon practicing at Speare Memorial Hospital in Plymouth, New Hampshire. He is the first doctor of osteopathy appointed to the Board. The Board would like to thank Dr. Wassfy Hanna for his 9+ years of service on the Board.

The Board would also like to welcome Muriel Lariviere, who joined the Board staff in August 2004.

Guidelines for Physician Internet and Telephone Prescribing (Approved 4/7/04)

There must be an appropriate relationship between the patient and the physician before a prescription is written and dispensed. A documented patient evaluation, including history and physical examination, adequate to establish diagnoses and identify underlying conditions and/or contraindications to the treatment recommended or provided, must be obtained prior to providing treatment, including issuing prescriptions electronically or otherwise.

Prescribing drugs to individuals the physician has never met, based solely on answers to a set of questions, as is common in Internet prescribing, is inappropriate and unprofessional. An on-line or telephone evaluation by questionnaire is inadequate for the initial evaluation or for the personal follow-up evaluation. It is the position of the Board that prescribing drugs under such circumstances, without appropriate documentation of a history and physical examination; a diagnosis; and a formulated therapeutic plan, a part of which might be a prescription; shall be considered unprofessional conduct in violation of RSA 329:17, VI, and may be cause for discipline.

Furthermore, the advertising or offering by a physician, or permitting the physician's name or license to be used in such advertisement to provide any prescription in a manner that would violate the above guidelines shall be considered unprofessional conduct, in violation of RSA 329:17, VI, and may be cause for discipline.

The members of the NH Board of Medicine have interpreted that a sufficient examination in the establishment of a valid physician-patient relationship cannot take place without an initial face-to-face encounter with the patient. It requires at the minimum: 1) verifying the person requesting the medication is who they claim to be; 2) establishing a diagnosis through the use of acceptable medical practices, such as patient history, mental status exam, physical exam, and appropriate diagnostic and laboratory testing by the prescribing physician; 3) discussing with the patient the diagnosis and the evidence for it, and the risks and benefits of various treatment options; and 4) ensuring availability of the physician or coverage for the patient for appropriate follow-up care; (which usually includes a face-to-face encounter at least once a year and as often as is necessary to assure safe continuation of medication.) Complete management of a patient by Internet, e-mail, or other forms of electronic communication is inappropriate.

Prescribing for a patient whom the physician has not personally examined may be suitable under certain circumstances, including: 1) initial admission orders for newly hospitalized patients; 2) prescribing for a patient of another physician for whom the prescriber has taken call; 3) prescribing for a patient examined by a licensed advanced practice registered nurse, physician assistant, or other advanced practitioner authorized by law and supported by the physician; 4) continuing medication on a short-term basis for a new patient, prior to the patient's first appointment; 5) emergency situations where life or health of the patient is in imminent danger; 6) emergencies that constitute an immediate threat to the public health (e.g. empiric treatment or prophylaxis to control an infectious disease outbreak); 7) under certain circumstances for treatment of contacts of sexually transmitted diseases, it is appropriate for a physician to give a prescription to the index patient with whom there is a physician-patient relationship for the sole purposes of treating a sex partner that has not been examined. Established patients may not require a new history or physical for each new prescription, depending on good medical practice.

New Hampshire physicians should remember that if they practice medicine on patients outside of the state, over the telephone or Internet, they are practicing in NH and are subject to Board jurisdiction. Inappropriate internet prescribing from physicians from out of state who have never had contact with the patient will be reported to the Attorney General's Office.

Physicians providing care and/or treatment to patients in New Hampshire must be licensed in New Hampshire. The issuance of a prescription or dispensing of a medication to individuals who are physically located in the State of New Hampshire constitutes the practice of medicine and may only be undertaken by physicians licensed to practice medicine in this state. Thus, an out-of-state doctor using telemedicine or the Internet to diagnose and treat a patient residing in New Hampshire must have a New Hampshire license or be acting as a consultant to a NH physician who has a bona fide physician-patient relationship with the patient.

A physician located outside of this state shall not be required to obtain a license when: 1) in consultation with a physician licensed to practice medicine in this state who has a bona fide doctor-patient relationship with the patient; AND 2) the physician licensed in this state retains the ultimate authority and responsibility for the diagnosis and treatment in the care of the patient located within this state.

Any doctor providing consultation or prescription for a patient in New Hampshire who is not licensed in New Hampshire will be referred to the Attorney General of this state and to the appropriate licensing jurisdiction in the state where that physician is located for practicing medicine without a license.

PHYSICIAN RENEWAL APPLICATION

Frequently questions arise on how physicians should answer question number 8 on the renewal application. The question reads "Have you been the subject of an investigation or disciplinary proceeding?" If you have ever received a request from the New Hampshire Board requesting records or other data about a case and no action was taken, you should answer no. If disciplinary action was taken as a result of an investigation, you need to answer yes. **If you received a Letter of Concern as a result of an investigation, the answer would be no.** You also answer yes to the question if you have been under investigation by a hospital or other agencies (i.e. nursing home, insurance). Should you feel you need further clarification, please contact the Board staff at (603) 271-6934.

DISCLOSURE OF OWNERSHIP INTEREST

Inconsistencies with regard to physicians disclosing ownership interests have been reported to the Board. Physicians need to be consistent year by year in disclosing this information. There were 51 physicians who disclosed referrals to entities they had financial interest in the 2nd quarter who did not disclose in the 3rd quarter. There were 10 physicians who disclosed referrals in the 3rd quarter who did not disclose any in the 2nd quarter. Please be advised that physicians are required, by law, to disclose ownership interests.

BOARD ACTIONS:

The following final board actions were taken by the Board from November 13, 2003 through June 30, 2004.

Nicola J. Miragliuolo, M.D. Hollis, NH

11/13/03 - The Board accepted Dr. Nicola Miragliuolo's voluntary surrender of her New Hampshire medical license due to an arrest for driving under the influence and failure to report to Physician's Health Program as required by her contract. She also provided medical care to others while under the influence of alcohol.

H. Marc Watzman, M.D. Chicago, IL

12/31/03 - The Board of Medicine terminated Dr. Watzman's Locum Tenens license. The Board was notified on November 13, 2003 that Dr. Watzman's privileges to practice at DHMC had been administratively terminated on October 18, 2003. Because the conditions of practice was limited to DHMC, Dr. Watzman's Locum Tenens license to practice in New Hampshire was terminated, effective October 18, 2003.

David S. Chase, M.D. Shelburne, VT

1/13/04 - David S. Chase entered into an Agreement to Relinquish Right to Practice Medicine in the State of New Hampshire on January 12th with the Board of Medicine. Dr. Chase recognizes that professional misconduct allegations are now pending against him before the New Hampshire Board of Medicine and the State of Vermont Board of Medical Practice, therefore, he voluntarily agrees not to engage in the practice of medicine in the State of New Hampshire until such time as the Vermont Board issued an administratively final order resolving those issues currently pending before the Vermont Board.

Theodore Lindauer, M.D. Exeter, NH

01/13/04 - The Board approved a Settlement Agreement with Dr. Theodore Lindauer, whereby Dr. Lindauer is reprimanded and his license to practice in the area of substance abuse is restricted until he has completed 80 hours of continuing medical education in the assessment and treatment of substance abuse.

David M. Cheney, M.D. Ludowici, GA

01/15/04 - The Board of Medicine entered into a Settlement Agreement with David M. Cheney, M.D. Dr. Cheney is reprimanded and must meaningfully participate in and complete a behavioral intervention course. He must complete this coursework within one year of the date of the Settlement Agreement. For a minimum period of one year the respondent shall engage in laparoscopic surgical intervention only while under the supervision of a Board Certified surgeon and engage in colonoscopy only under the supervision of a Board Certified surgeon or Board Certified gastroenterologist.

Robert P. Cipro, M.D. N Andover, MA

01/16/04 - The Board accepted Dr. Robert P. Cipro's voluntary surrender of his New Hampshire medical license due to reciprocal disciplinary action taken by the Massachusetts Board for professional misconduct in the practice of medicine.

Mark K. Detweiler, M.D. Londonderry, NH

2/10/04 - Mark K. Detweiler, M. D. entered into a Settlement Agreement with the Board of Medicine. Respondent is Reprimanded for the sale of health related products at a profit directly to his patient without offering an alternative source for the product. Dr. Detweiler is ordered to cease and desist the sale of all health related products from G. I. Whole Health and is assessed an Administrative fine in the amount of four thousand dollars.

Jason S. Henderson, D.O. Nashua, NH

2/10/04 - The Board of Medicine entered into a Settlement Agreement with Jason S. Henderson, D.O. Dr. Henderson signed a contract in August of 2003 with New Hampshire Physician Health Program, which required him to submit to random drug screens. Dr. Henderson's license to practice medicine is Suspended for a period of six months, commencing November 1, 2003, for violation of his contract. Respondent shall at his own expense participate in an intensive outpatient substance abuse counseling and treatment program.

3/5/04 - The Board issued an order approving substance abuse treatment provider. The Board approved Harmony Manchester Treatment Facility as Dr. Henderson's substance abuse treatment provider.

John B. Welch, M.D. Concord, NH

2/10/04 - By Consent Decree, the Board of Medicine permanently revoked John B. Welch, M.D. medical license. The respondent was convicted of felony level crimes involving sexual misconduct and witness tampering. He admitted to engaging in sexual intercourse with a second patient.

Richard K. Hacker, M.D. Peterborough, NH

2/17/04 - The Board issued an order amending the Settlement Agreement with Richard K. Hacker, M.D. dated August 11, 2003. The original order was modified to allow Dr. Hacker to practice in a group practice and under the supervision of the department chairman. Dr. Hacker needs to be chaperoned while performing certain specific examinations on female patients.

Christos A. Koutras, M.D. Concord, NH

3/5/04 - Dr. Koutras voluntarily surrendered his license because of concerns with his health.

Luis F. Flores, M.D. Exeter, NH

3/11/04 - Dr. Luis Flores entered into a Settlement Agreement with the Board of Medicine. The respondent is reprimanded and must be supervised for laparoscopic surgeries for at least one year. Dr. Flores has agreed to pay an administrative fine in the amount of 3,500.00 and is required to participate in a Board-approved program of continuing medical education of no less than twenty hours.

The Board has also issued 45 confidential letters of concern, pursuant to RSA 329:17, VII-a, from November 13, 2003 through June 30, 2004. These letters advise the licensee that while there is insufficient evidence to support disciplinary action, the Board believes the physician should modify or eliminate certain practices, and that continuation of the activities which led to the information being submitted to the Board may result in action against the licensee's license. These letters are not released to the public or any other licensing authority, except that the letters may be used as evidence in subsequent disciplinary proceedings by the Board. 106 Consumer Complaints, 69 Writs from the Courts, 15 Malpractice Claims and 52 complaints from other sources were received during that time frame.

- The Board office has been called for requests of further details about certain disciplinary actions. All Orders are public documents and may be obtained by calling the Board office at (603) 271-1203. There is a fee of \$.25 per page for all Orders.