

NEWSLETTER

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DUTY TO WARN

Many physicians mistakenly believe that only psychiatrists bear a legal responsibility to warn unsuspecting citizens if a patient of theirs makes serious threat against them. In fact, this duty is borne by all licensed physicians in this state.

RSA 329:31 states:

L. A physician licensed under this chapter has a duty to warn of, or to take reasonable precautions to provide protection from, a client's violent behavior when the client has communicated to such physician a serious threat of physical violence against a clearly identified or reasonably identifiable victim or victims, or a serious threat of substantial damage to real property.

The law goes on to state that the physician who makes a reasonable effort to warn by notifying the police department closest to the patient's or the potential victim's residence or by notifying the victim or victims directly or by obtaining civil commitment of the patient will be granted immunity from civil liability for that action.

Further, the law states that this section is applicable to "such persons providing treatment under the supervision of a physician."

Continued on page 2...



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A NEW BOARD MEMBER

Prior to leaving office Governor Stephen E. Merrill appointed Ms. Jean Barnes to fill the public vacancy on the Board of Medicine. This position was created through legislation which became effective Continued on page 2...

Inside This Issue

- 1 About the Board-Recent Changes
- 2 Duty to Warn
- 3 Limited Funding
- 4 Reporting Communicable Disease
- 5 Legislative Update

DUTY TO WARN...

Continued from page 1

The recent events in the O.J. Simpson trials and in cases of domestic violence here in New Hampshire make it more important than ever for physicians and their support teams to be aware of the laws which are in place to protect the victims of these crimes.

These laws also protect physicians by eliminating the fear of civil liability when they do become aware of the potential for violence of someone they are treating. All physicians, especially primary care providers, must play a role in helping to save the lives of those who are endangered by others.

Every physician should become aware of the provisions of RSA 329:31. If you do not have a copy of the Medical Practice Act, please call the board's office and one will be provided to you. You may also wish to discuss this or other issues in the law with your attorney. Remember, ignorance is not an excuse for failing to obey the requirements of the law. As in most other things, being informed is your best protection.

**LOOK OUT!
IT'S RENEWAL TIME
AGAIN!**

Renewal applications will be mailed in April and are due to be returned before June 30.

If you do not receive your renewal application by May 1, please call the office. If you have changed practice location and have not notified the office, you must do so in writing before April or your renewal will be sent to your old office address.

REMEMBER! IT'S YOUR LICENSE. DO NOT ENTRUST YOUR RENEWAL TO SOMEONE ELSE.

**LOW FUNDING
HAMPERS BOARD
EFFECTIVENESS**

As many are already aware, the NH Board of Medicine is consistently ranked within the bottom 5 states in the percentage of disciplinary actions taken against physician licenses. Despite our consistent efforts to improve our responsiveness to consumers, the Board has been frustrated by its inability to fully investigate allegations of misconduct due to budgetary constraints.

Now, a recent survey conducted by the Federation of State Medical Boards has given credence to the Board's position that it is hampered by fiscal constraints and not by a lack of desire to protect the public.

The Federation surveyed state medical boards around the country about to their staffing and funding levels which are dedicated to investigations and discipline. That survey showed that New Hampshire has 1/2 the national average of funding available to investigate allegations of misconduct.

While the number of complaints received by the Board is slightly above the average, the number of investigators available to the board is 84% below the average. The numbers also indicate, that the number of actions taken by the board per investigator is nearly triple the average.

Each year, when the national statistics on disciplinary actions are released, the Federation urges consumers and the media to recognize that states vary in the resources allocated to medical board activities and the autonomy of the Board to spend the funds that it collects in licensing fees.

NEWSLETTER

The figures above directly reflect the Board's inability to address the complex disciplinary issues presented without adequate staffing.

While revenues collected by the Board in Fiscal year 1996 were just under \$592,000, the state allowed the Board to spend only \$343,000 on it's total operations. The excess funds remained in the state general fund and were allocated to other state spending.

During this Legislative session, the Board is requesting fiscal autonomy and the creation of 1 or 2 positions for investigators. As the numbers show, these additions will only serve to bring New Hampshire up to average in it's funding and personnel. Given that the Board is performing far better than average, we hope that our hard work would then result in better protection of the public.

- **Medical Regulatory \$ per licensed physician:**
NH \$72
Average \$144
- **Number of Investigators per 5,000 licensees:**
NH .36
Average 2.22
- **Number of prejudicial actions per investigator:**
NH 36.0
Average 13.6

A NEW BOARD MEMBER
Continued from page 1...

Jan. 1, 1996. Ms. Barnes was administrator of the medical board until 1992 when she left to join Governor Merrill's personal staff. She has now assumed a position in the office of Program Support, Department of Health and Human Services. Ms. Barnes' nomination was approved by the Executive Council on December 18, 1996.

COMMUNICABLE DISEASE REPORTING

The Foundation for Disease Control

Control of communicable diseases is an expectation of health care. Many infectious illnesses present risks to others beyond the doors of medical offices. Physicians have long been expected to report certain illnesses to the NH Division of Public Health Services.

On a practical basis, most physicians would agree that preventing the eviction of an individual with active tuberculosis (as we recently did) was an important public health action. If we did not know about that case, we might have had a homeless person with active tuberculosis.

Not all cases are as obvious as tuberculosis, many reports will turn out not to be a significant risk to the community. It is the role of the NH DHHS Disease Control program to sort out the significant cases from the insignificant. We have a few tools that practicing physicians do not have.

These include:

- statutory disease investigation and control authority,
- experienced public health nurses and disease investigation specialists,
- epidemiological expertise,
- easy access to CDC advice and support, and
- our public health laboratory performs supportive tests (that may not be relevant clinically, such as typing of *N. Meningitides*).

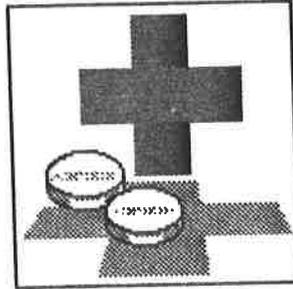
Reporting forms the basis for our surveillance. It is important to know how many meningococcal infections occurred in the past year and where they occurred.

Reporting of certain diseases is required under NH RSA 141-C. It can be argued that this statute defines a standard of practice.

The rules He-P 301 specify the reportable diseases. These were mailed to all licensed physicians on October 9, 1996. Copies are available by calling 603-271-4477.

The Disease Control program will be reviewing the reportable diseases and is looking for input from physicians and their organizations about the reportable diseases and types of feedback about these illnesses that practicing physicians will find useful.

by: Charles E. Danielson, MD
Medical Director
Department of H.H.S.



DISCIPLINARY ACTION

The following final disciplinary actions were taken by the Board from August 1, 1996 - February 1, 1997

Linda Mattson, PTI - License revoked for gross misconduct in the practice of physical therapy for diverting controlled substances from patients for personal use.
John Desbiens, RCP - Reprimanded by Settlement Agreement for practicing without a license.

NEWSLETTER LEGISLATIVE UPDATE

Now that the excitement of the political season is over, it is time for the NH Legislature and our new governor to get down to the business of the people. Nearly 1,000 bills await this legislative session.

Many of those bills will effect physicians in their daily practice. Bills regulating managed care, patient's rights, use of medical assistants, use of out-of-state radiologists and access to medical records are all being considered during this legislative session.

It is important that physicians become involved in the political process. Many of these laws effect you and your patients. The Board urges you to add your voices to the lawmaking process.

BOARD LEGISLATION

The Board has also requested legislation to add an executive director and a full time investigator to the Board's staff. This bill also requests that the Board's administrative attachment to the Department of Health and Human Services be severed and that the revenues raised through physician licensing fees be allocated entirely to the operations of the Board.

The Board has also requested that the allied health professions which are currently regulated by the Board be moved into an "Office of Allied Health Regulation." This Office would allow each profession to regulate itself as a board, but would combine their administrative functions into a single unit for greater efficiency.

Members of the affected professions worked cooperatively with Maureen Knepp, PA-C, to draft this legislation. The Board appreciates their hard work and spirit of cooperation.