



# ALABAMA BOARD OF MEDICAL EXAMINERS NEWSLETTER

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## USE OF CHAPERON RECOMMENDED

by Larry D. Dixon, Executive Director

While reading newsletters from other state Medical Examiner Boards, I saw an interesting article written by Margaret S. Skinner, M.D., member, Florida Board of Medicine. The article dealt with sexual misconduct in the practice of medicine.

It begins, of course, with a discussion of the mutual trust relationship that is necessary in any successful physician/patient relationship and holds as one of that relationship's most important tenants that "... exercising influence within a patient/physician relationship for purposes of engaging a patient in sexual activity is considered by all to be a situation where a patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with this physician".

In cases of such an event being complained about and coming to the attention of the Alabama Board of Medical Examiners, it is more than honest to say that regardless of the validity of the claim the physician will be open to an arduous and sometimes expensive defense. The Board of Medical Examiners believes that it is their responsibility via authorization from the State of Alabama to protect the patient and consequently, credibility must be given to a patient who makes this type of accusation.

A physician can protect himself against most false allegations. The most obvious way, of course, is to always keep one of your employees present as a chaperon when you examine patients, especially those of the opposite sex. A wise physician includes a third person in all examinations. That person's presence generally makes the patient more comfortable and can preclude any misconceptions about sexual advances during an examination.

There are cases that have come to the attention of the Alabama Board of Medical Examiners wherein a patient is perceived by the doctor to be a potential problem. The physician at all times should protect himself and his practice in such a situation. Once again, the most obvious is a chaperon present in the examination room or in a patient's office when all discussions are taking place.

Other physicians have found themselves in a situation where a patient becomes seductive, requiring special attention. Evening telephone calls, requests for personal appointments outside of the office practice, etc. When such occurs a physician should immediately consider the possibility of a referral to another physician. The number one reason for such a referral is a well documented precedent where patients who have become seductive and have developed an affinity beyond a physician/patient relationship begin to perceive they are being rejected many times file complaints against the physician for having made unwanted sexual advances.

Dr. Skinner, in her article for the Florida newsletter, included the possibility that a physician could find himself or herself attracted to a patient and the potential for a dangerous involvement is more apparent in such a situation. At that point, a physician should immediately discontinue the patient/physician relationship, refer the patient to another physician and document the referral in the medical record. The reason for this being that even if the patient's action indicate consenting activity, the Alabama Board of Medical Examiners and the law believe that a patient is incapable of "giving free, full and informed consent". As Dr. Skinner stated it, "... continuing to treat a patient with whom you are becoming romantically involved is to leave yourself open for later complaints against your license and probably a civil suit".

A wise physician needs to avoid all situations that have the potential to be misconstrued as unwanted sexual advances. The motivation for constant awareness of this potential is the fact that a single complaint can irreparably harm your professional reputation and your medical practice.

The Alabama Board of Medical Examiners advises the physicians in this state to use a chaperon at all times when examining a patient of the opposite sex and that physicians protect themselves and their patients during all physician/patient contact.

## Medical Licensure Commission PUBLIC ACTION REPORT MARCH 1995 through MAY 1995

On March 22, 1995, the Medical Licensure Commission entered an approved Stipulation and Consent Order concerning the license to practice medicine in Alabama of John Christy Carrozzella, M.D., license number 16134, Pensacola, Florida. The action by the Commission was based upon a similar action by the Florida Board of Medicine against Dr. Carrozzella's Florida medical license. The Medical Licensure Commission's Order places Dr. Carrozzella's Alabama license on probation subject to specified terms and conditions, which include an administrative fine and mandated CME hours.

On March 22, 1995, the Medical Licensure Commission entered an approved Stipulation and Consent Order concerning the license to practice medicine in Alabama of Patrick Henry Smith, M.D., license number 2857, Birmingham, Alabama. The allegations resulting in disciplinary action arose out of a quality of care issue concerning a possible tubal pregnancy. According to the Consent Order, a letter of reprimand was issued to Dr. Smith and an administrative fine in the amount of \$2500.00 was assessed against him.

On March 29, 1995, the Medical Licensure Commission issued an Order revoking the license to practice medicine in Alabama of Lebaron A. Foster, M.D., license number 3341, Mobile, Alabama. At the time of the revocation, Dr. Foster's license was subject to terms of probation due to inappropriate prescribing practices. The revocation of Dr. Foster's license was based upon non-compliance with the terms and conditions of the Commission's previous Order.

On March 29, 1995, the Medical Licensure Commission issued an Order revoking the license to practice medicine in Alabama of Michael James Morgan, M.D., license number 13636, Montgomery, Alabama. Dr. Morgan's license was revoked after the Commission found that Dr. Morgan was guilty of non-compliance with the Commission's previous reinstatement Order of August 23, 1993 and with the Commission's August 29, 1994 Order modifying the reinstatement.

On May 8, 1995, the Medical Licensure Commission entered an Order amending the terms of probation entered against the license to practice medicine in Alabama of David R. Barthold, M.D., license number 6406, Hueytown, Alabama. The amendment allows for the relocation of Dr. Barthold's practice from Hueytown to Bessemer Carraway Medical Center. All the terms of the probation remain in effect.

## CALL FOR PAPERS!

Cosponsored by the American Medical Association, the Federation of State Medical Boards, the Canadian Medical Association, and the Federation of Medical Licensing Authorities of Canada, "Uncertain Times: Preventing Illness, Promoting Wellness" is the theme for the 1996 International Conference on Physician Health to be held February 7-10, 1996, at the Sheraton San Marcos Hotel in Chandler, Arizona.

Presentations dealing with any aspect of physician health, including issues of well-being, impairment, disability, treatment, and education are welcome. Of particular interest are stress and Physician Health; Epidemiologic data; The effects of violence directed at physicians; Violence occurring within physicians' families; Patient exploitation; Mental illness, including substance abuse; Physical illness and disability, Special populations; Comparative data cross states or countries; Physician well-being and family functioning.

For more information or to request an abstract submission form, call Elaine Tejcek at 312-464-5073 or FAX your inquiry to 312-464-5841.

### ANNUAL CME SUMMER REGIONAL ON "GERIATRICS"

You are invited to attend MASA's 20th annual series of summer regional CME programs, focusing this year on geriatrics. Geriatrics covers such a broad spectrum of medical problems that additional faculty have been added at each location to cover a variety of expertise and interests in this area.

The same program will be offered at two state park locations. Registrants can earn up to 10 hours of CME credit in one weekend. Registration will be on Friday evening from 6:30-8:30 PM with a social hour. The educational sessions are the same at both locations from 8:00 AM until 12:00 Noon on Saturday and Sunday. Plenty of time for the family to enjoy the mountains at Lake Guntersville or the beaches at Gulf State Park.

Mark your calendar:

**August 4-6 • Guntersville**

**August 11-13 • Gulf Shores**

For details call the MASA Education Dept. at 334-263-6441 or 800-239-6272.

## Alabama Board of Medical Examiners PUBLIC ACTION REPORT MARCH 1995 through MAY 1995

On May 18, 1995, Matthew Bruce Ferrell, M.D., license number 14142, Muscle Shoals, Alabama, voluntarily surrendered his certificate of qualification and license to practice medicine in the State of Alabama. The voluntary surrender occurred while Dr. Ferrell was under investigation by the Alabama State Board of Medical Examiners for alleged violation of Alabama Code §34-24-360(19)(1975) concerning impairment. Dr. Ferrell is no longer authorized to practice medicine in the State of Alabama which includes no authority to prescribe any drugs, either non-controlled or controlled.

On May 19, 1995, Dick Owens, M.D., license number 7870, Haleyville, Alabama, voluntarily surrendered his Alabama controlled substances certificate, certificate number 7870. The voluntary surrender occurred while Dr. Owens was under investigation for possible violations of Alabama Code §34-24-360 (1975). Dr. Owens also surrendered his DEA registration. Dr. Owens is no longer authorized to prescribe controlled substances in the State of Alabama.

On March 31, 1995, a voluntary restriction was entered against the certificate of qualification and license to practice medicine in Alabama of Robert Houchin Pine, M.D., license number 11753, Theodore, Alabama. The action restricts Dr. Pine, who suffers from an illness, from actively practicing medicine until authorized by the Board of Medical Examiners.

On March 27, 1995, Oscar Gibbs Simpson, M.D., license number 2944, Huntsville, Alabama, voluntarily surrendered his Alabama controlled substances certificate, certificate number 2944. The voluntary surrender occurred while Dr. Simpson was under investigation by the Alabama Board of Medical Examiners for alleged inappropriate prescribing practices. Dr. Simpson also surrendered his DEA registration, and Dr. Simpson is no longer authorized to prescribe controlled substances in the State of Alabama.

### EDUCATION IN PREVENTING SEXUAL MISCONDUCT IN ALABAMA

by Gerald L. Sumner, MD  
Medical Director, Physicians Recovery Network

Professional boundaries are the limits of a fiduciary relationship in which a patient entrusts her or his welfare to a physician to whom a fee is paid for the privilege of a service.<sup>1</sup> Boundaries imply professional distance and respect which includes refraining from sexual involvement with patients. The subject of sexual violations and allegations of sexual misconduct has received a great deal of recent attention in the medical literature and the news media in Alabama among other states, in Canada, and in New Zealand.<sup>2</sup> With social expectations and clinical

practice changing so rapidly, many physicians are uncertain as to what it is appropriate in their relationships with their patients. For patients and physicians to continue a comfortable, trusting relationship, this dilemma needs attention.

The Alabama Board of Medical Examiners (BME) and the Medical Association of the State of Alabama (MASA) have made a concerted effort to educate physicians in Alabama on physician/patient boundary issues and prevention of allegations of professional sexual misconduct. This educational effort has not stopped with the physician's practice but has included any non-physician involved in the investigative and decision making process with the state medical board.

Nationally recognized authorities participated during a symposium on professional sexual misconduct developed for the BME and Medical Licensure Commission in August of 1994. Material in this symposium included 1) the incidence and types of professional sexual misconduct as reported nationally, 2) what physician actions constitute boundary violations, 3) characterization of the physician who may be involved with complaints of sexual misconduct, and 4) profile of the patient who may be vulnerable to sexual involvement with the physician. Consistent with the concept that professional sexual misconduct is "the regulatory issue of the nineties"<sup>3</sup> the Alabama board is making every effort to remain current.

MASA's Education Department, together with the BME, presented a continuing educational program which was made available to all Alabama physicians on December 3, 1994 in Birmingham, Alabama titled "Sexual Problems in Medical Practice." The seminar was attended by seventy-eight Alabama physicians. The program provided 6.5 hours in Category I of the Physicians Recognition Award of the American Medical Association. This seminar's objectives included background on sexual abuse problems and the kinds of sexual problems encountered, use of chaperons, understanding the potential of sexual harassment claims, identifying common errors in maintaining clear boundaries with patients, and the applicable laws, policies and procedures in Alabama relating to sexual misconduct.

The Physicians Recovery Network (PRN) in conjunction with the Communications Department of MASA developed a special issue of *Alabama Medicine* in December of 1994 devoted exclusively to issues surrounding sexual misconduct in the physician/patient relationship entitled "The Physician and Sexual Boundary Issues."<sup>4</sup> This issue included contributions from authors published in national medical literature. The journal contained all aspects of the relationship between a physician and patient that might be suggestive of or have the potential to be considered a boundary violation. Reprints from this issue of *Alabama Medicine* have been requested from many physicians both within and outside the state of Alabama.

Expanding on the December 1994 issue of *Alabama Medicine* and the BME symposium in August of 1994, PRN has developed ongoing programs to educate hospital  
(Continued on page 4)

## Preventing Sexual Misconduct (Cont'd from page 3)

Physician groups, county medical societies, and other physician groups on sexual boundary issues in the practice of medicine. Through July 1995 PRN has presented this program to 26 groups throughout Alabama which have been attended by over 300 physicians collectively.

Beginning with the Fall 1993 issue of the Alabama BME Newsletter, both the BME and MASA have endeavored to keep Alabama physicians current on this "issue of the nineties" and to ensure that patient safety and trust in the physician/patient relationship is maintained. The ongoing effort to reach every licensed physician stands out as a model for other states.

1. Gabbard, G.O., Nadelson, C.; Professional Boundaries in the Physician-Patient Relationship, JAMA, 1995; 273-1449.
2. Sexual Abuse in the Doctor/Patient Relationship, Statement for the Profession and The Medical Council of New Zealand. P.O. Box 11-649, Wellington, New Zealand.
3. Gregory, G.R., J.D., cited by Reaves, R.P., J.D.; Sexual Intimacies with Patients: The Regulatory Issue of the Nineties, Federation Bulletin, 80(2), 1993; 83-90.
4. Summer, G.L. et al; The Physician and Sexual Boundary Issues, Alabama Medicine, 1994; 64(6): 4-19.
5. Summer, G.L., Lightfoot, W.M.; The Implication of Sexual Misconduct in a Physician's Practice, Alabama Board of Medical Examiners Newsletter, Fall 1993.

## 1995 CME CALENDAR -

**July 19-29--Kenya & Tanzania**  
Combined Conference on New Concepts  
in Cardiology

Contact: UAB Division of CME  
(205) 934-2687

CME Credit: 17 hours of Category 1

**July 20-23--Destin FL**

Urology Seminar

Contact: UAB Division of CME  
(205) 934-2687

CME Credit: 11 hours of Category 1

**July 24-29--Destin FL**

Fifteenth National Symposium for  
Healthcare Executives

Contact: UAB Center for Health  
Services Continuing Education  
(205) 934-3588

CME Credit: 11.5 hours of Category 1  
(please call for listing of all credit given)

**July 29--Edgewater Beach Resort**

AL Academy of Ophthalmology - Mutual  
Assurance Loss Prevention Contact:  
Mutual Assurance  
(205) 871-7280

**August 4-6--Guntersville AL**

CME Summer Regional- Geriatrics  
Contact: MASA Education Dept.  
(334) 263-6441 or (800) 239-6272

CME Credit: 10 hours of Category 1

**August 11-13--Destin FL**

16th Annual Postgraduate Course - Am.  
Academy of Allergy, Asthma &  
Immunology & AL Soc. of Allergy &  
Immunology

Contact: Adult & Pediatric Asthma and  
Allergy Center (334) 633-3311

CME Credit: 7.5 hours of Category 1

**August 11-13--Gulf Shores AL**

CME Summer Regional - Geriatrics  
Contact: MASA Education Dept.  
(334) 263-6441 or (800) 239-6272

CME Credit: 10 hours of Category 1

**August 12--Birmingham AL**

AL Chapter, Am. College of Radiology -  
Mutual Assurance Loss Prevention  
Seminar

Contact: Mutual Assurance  
(205) 871-7280

**September 13-17--Destin FL**

13th Annual Rheumatology on the Beach  
Contact: Annette Lee, Brookwood  
Medical Center (205) 877-1692

CME Credit: 15 hours of Category 1

**September 13-15--Birmingham AL**

6th Annual Percutaneous Transluminal  
Coronary Angioplasty

Contact: UAB Division of CME  
(205) 934-2687 CME Credit: TBA

**September 28--Huntsville AL**

Neurology and Rheumatology  
Contact: UAH Office of CME  
(205) 551-4490

CME Credit: 6 hours of Category 1

**September 28--Perdido AL**

AL Chapter, Am. Academy of Pediatrics  
- Mutual Assurance Loss Prevention  
Seminar

Contact: Mutual Assurance  
(205) 871-7280

**October 4-6--Montgomery AL**

Statewide AIDS Symposium  
Contact: MASA Education Dept.  
(334) 263-6441 or (800) 239-6272

CME Credit: 3 hours of Category 1

**October 15-18--Lake Buena Vista FL**  
Current Clinical Internal Medicine  
Seminar

Contact: George Converse, MD  
Lloyd Noland Hospital (205) 783-5276  
CME Credit: 15 hours of Category 1

**October 19--Huntsville AL**

7th Annual Infectious Disease Conference  
for Primary Care Practitioners

Contact: UAH Office of CME  
(205) 551-4490

CME Credit: 6 hours of Category 1

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ALABAMA BOARD OF MEDICAL EXAMINERS  
NEWSLETTER

