



# ALABAMA BOARD OF MEDICAL EXAMINERS **NEWSLETTER**



## Reporting of Physician Disciplinary Actions

Hospital administrators are required by state law, Ala. Code §34-24-59 to report to the Alabama State Board of Medical Examiners any disciplinary action taken concerning a physician when the action is related to professional ethics, medical incompetence, moral turpitude or drug or alcohol abuse. The law requires that reports be submitted within 60 days of the date of the initial action. Disciplinary actions are defined to include termination, reduction or resignation of hospital privileges for any of the reasons outlined above.

Failure to file a report required by this law could result in the imposition of a civil monetary penalty against the hospital of up to \$2,500.00. This reporting requirement is in addition to the reporting requirements under the National Practitioner Data Bank.

The Alabama State Board of Medical Examiners and Medical Licensure Commission of Alabama invites you to visit our web site at:

**[www.albme.org](http://www.albme.org)**

and obtain:

Licensure Verification Online using "Docfinder"  
(a searchable database)

Disciplinary Actions (Updated monthly)

Administrative Rules & Regulations

Policy Opinions

Alabama Statutes

Current Board Members

## New Feature

## FAQ (Frequently Asked Questions)

*Q: Please provide me with the Rules regarding physicians prescribing to their family members.*

**A: The Board does not have Administrative Rules addressing physicians prescribing to their family members, nor is there a statutory prohibition; however, the Board looks to the ethical opinion of the American Medical Association's Council on Ethical and Judicial Affairs in consideration of unprofessional conduct issues. The Medical Licensure Commission's Rule concerning unprofessional conduct is also considered.**

The American Medical Association's Council on Ethical and Judicial Affairs ethical opinion is as follows:

### 3.19 Self-Treatment or Treatment of Immediate Family Members

Physicians generally should not treat themselves or members of their immediate families. Professional objectivity may be compromised when an immediate family member or the physician is the patient; the physician's personal feelings may unduly influence his or her professional medical judgment, thereby interfering with the care being delivered. Physicians may fail to probe sensitive areas when taking the medical history or may fail to perform intimate parts of the physical examination. Similarly, patients may feel uncomfortable disclosing sensitive information or undergoing an intimate examination when the physician is an immediate family member. This discomfort is particularly the case when the patient is a minor child, and sensitive or intimate care should especially be avoided for such patients. When treating themselves or immediate family members, physicians may be inclined to treat problems that are beyond their expertise or training. If tensions develop in a physician's professional relationship with a family member, perhaps as a result of a negative medical outcome, such difficulties may be carried over into the family member's personal relationship with the physician.

*(continued on page three)*

## Alabama Board of Medical Examiners Public Action Report March through June 2000

On April 3, 2000, the Alabama Board of Medical Examiners and Kenneth Franklin LeMaster, M.D., license number 11543, Sheffield, Alabama, entered into a Stipulation and Consent Order wherein Dr. LeMaster's Alabama Controlled Substances Certificate was reinstated to full prescribing authority for Schedules II through V, subject to certain restrictions.

On April 10, 2000, the Alabama Board of Medical Examiners entered an Order removing the Voluntary Restrictions placed on the certificate of qualification to practice medicine in Alabama of Robert J. Cain, M.D., license number 15992, Starkville MS, on March 4, 1997. Dr. Cain's license to practice medicine in Alabama was restored to full, unrestricted status.

On April 10, 2000, the Alabama Board of Medical Examiners entered an Order removing the Voluntary Restrictions placed on the certificate of qualification to practice medicine in Alabama of Fred Leon Picklesimer, M.D., license number 16708, Philadelphia, Pennsylvania, on August 16, 1994. Dr. Picklesimer's license to practice medicine in Alabama was restored to full, unrestricted status.

On April 19, 2000, the Alabama Board of Medical Examiners accepted the voluntary surrender of the certificate of qualification and license to practice medicine in Alabama of Albert B. Copeland, M.D., Tuscaloosa, Alabama, while under investigation by the Board for alleged violations of Ala. Code §34-24-360, specifically, unprofessional conduct for not obtaining the required annual continuing medical education. Dr. Copeland is no longer authorized to practice medicine in Alabama.

On April 19, 2000, the Alabama Board of Medical Examiners accepted the voluntary surrender of the Alabama Controlled Substances Certificate of Maurice M. Mullendore, M.D., license number 1309, Sheffield, Alabama. Dr. Mullendore is no longer authorized to prescribe controlled substances in Alabama.

On May 17, 2000, the Alabama Board of Medical Examiners accepted the voluntary surrender of the certificate of qualification and license to practice medicine in Alabama of Ernest A. Claybon, Jr., M.D., license number 7543, Midfield, Alabama. Dr. Claybon is no longer authorized to practice medicine in Alabama.

On May 17, 2000, the Alabama Board of Medical Examiners denied the application for reinstatement of the certificate of qualification to practice medicine in Alabama of Horace C. Clayton, M.D., Pell City, Alabama.

On June 14, 2000, a voluntary restriction was entered against the certificate of qualification to practice medicine in Alabama of Oscar D. Dellinger, III, M.D., license number 17723, Decatur GA. ●

## Medical Licensure Commission Public Action Report March through June 2000

On March 29, 2000, the Medical Licensure Commission entered an Order which denied the request of Dr. William Spurgeon Warr, license number 2244, for removal of the previous restrictions placed upon his license to practice medicine.

On March 29, 2000, the Medical Licensure Commission entered an Order which affirmed the decision of the Alabama Board of Medical Examiners to deny a certificate of qualification to practice medicine to Mostafa M. Rehab, M.D.

On March 29, 2000, the Medical Licensure Commission entered an Order reinstating the medical license of Richard Stockton Helffrich, M.D., license number 19514. Dr. Helffrich's medical license was placed on indefinite probation subject to the terms contained in the Commission's order.

On April 26, 2000, the Medical Licensure Commission entered an Order which temporarily suspended the medical license of Richard Alan Klimas, M.D., license number 12803.

On April 26, 2000, the Medical Licensure Commission entered a Stipulation and Consent Order which issued a reprimand and assessed an administrative fine to Angela Rene Sommerset, M.D., license number 15965.

On April 26, 2000, the Medical Licensure Commission entered an Order which amends its previous order of March 29, 2000, regarding the medical license of Richard Stockton Helffrich, M.D., license number 19514.

On May 5, 2000, the Medical Licensure Commission entered an Order which reinstated the medical license of John Melburn D. Holmes, M.D., license number 9079. Dr. Holmes' licensure remains subject to terms and conditions of the voluntary restriction issued by the Alabama Board of Medical Examiners.

On May 25, 2000, the Medical Licensure Commission entered a Consent Order which issued a reprimand to Michael Claus Buchholz, M.D., license number 20992, and assessed an administrative fine in the amount of \$5,000.00.

On June 13, 2000, the Medical Licensure Commission entered an Order Dismissing the Administrative Complaint, filed by the Board of Medical Examiners, based upon Dr. Marvin Wade Johnson's withdrawal of his application for reinstatement of his Alabama medical license. Dr. Johnson's license number is 7746.

On June 15, 2000, the Medical Licensure Commission entered an Order which dismissed the previous Show Cause Order issued by the Commission on March 29, 2000 regarding the medical license of Marcus Whitman, M.D., license number 3005.

*(continued on page three)*

**MLC Public Action Reports** *(continued)*

On June 28, 2000, the Medical Licensure Commission entered a Stipulation and Consent Order, previously approved by the Board of Medical Examiners regarding the medical license of Roger Dale Eiland, M.D., license number 8356. The Consent Order revoked Dr. Eiland's license for a period of ninety (90) days and thereafter will place Dr. Eiland on probation for five (5) years subject to the terms contained in the Consent Order. ●

**FAQ** *(continued from page one)*

Concerns regarding patient autonomy and informed consent are also relevant when physicians attempt to treat members of their immediate family. Family members may be reluctant to state their preference for another physician or decline a recommendation for fear of offending the physician. In particular, minor children will generally not feel free to refuse care from their parents. Likewise, physicians may feel obligated to provide care to immediate family members even if they feel uncomfortable providing care.

It would not always be inappropriate to undertake self-treatment or treatment of immediate family members. In emergency settings or isolated settings where there is no other qualified physician available, physicians should not hesitate to treat themselves or family members until another physician becomes available. In addition, while physicians should not serve as a primary or regular care provider for immediate family members, there are situations in which routine care is acceptable for short-term, minor problems.

Except in emergencies, it is not appropriate for physicians to write prescriptions for controlled substances for themselves or immediate family members. (I, II, IV) Issued June 1993.

The Medical Licensure Commission's Rule concerning unprofessional conduct is as follows:

**545-X-4-.06 Unprofessional Conduct.**

(1) Unprofessional conduct shall mean the commission or omission of any act that is detrimental or harmful to the patient of the physician or detrimental or harmful to the health, safety, and welfare of the public, and which violates the high standards of honesty, diligence, prudence and ethical integrity demanded from physicians and osteopaths licensed to practice in the State of Alabama. Furthermore, without limiting the definition of unprofessional conduct in any manner, the Commission sets out the below as examples of unprofessional conduct:

(a) The refusal by a physician to comply, within a reasonable time, with a request from another physician for medical records or medical information when such request is accompanied by a properly executed authorization of the patient.

(b) Intentionally, knowingly or willfully causing or permitting a false or misleading representation of a material fact to be entered on any medical record of a patient.

(c) Intentionally, knowingly or willfully preparing, executing or permitting the preparation by another of a false or misleading report or statement concerning the medical condition or extent of disability of a patient.

(d) The prescribing, dispensing, administering, supplying or otherwise distributing of any Schedule II amphetamine and/or Schedule II amphetamine like anorectic drug in violation of §20-2-54, Code of Alabama 1975, as amended in Action No. 33-890, Special Session, 1983.

(e) The failure to report to the Alabama State Board of Medical Examiners any final judgment rendered against such physician or surgeon during the proceeding year or any settlement in or out of court during the proceeding year, resulting from a claim or action for damages for personal injuries caused by an error, omission or negligence in the performance of his professional services without consent as required by §34-24-56, Code of Alabama, 1975.

(f) The refusal or failure by a physician or osteopath to comply with an order entered by the Medical Licensure Commission issued pursuant to §34-24-361(h), Code of Alabama, 1975.

(g) Intentionally or knowingly making a false, deceptive or misleading statement in any advertisement or commercial solicitation for professional services and/or intentionally or knowingly making a false, deceptive or misleading statement about another physician or group of physicians in any advertisement or commercial solicitation for professional services.

(h) Failure or refusal of a J-1 physician to comply with waiver service requirements stated in the J-1 Visa Waiver Affidavit and Agreement signed by a J-1 physician.

**Author:** Mark C. McDonald

**Statutory Authority:** Code of Ala. 1975, § 34-24- 360(2).

**History:** Filed February 3, 1984. Amended: Filed June 4, 1985. Amended: August 23, 1989 - Effective: January 1, 1991

*In space permitting, the Board will respond in this column to questions from physicians concerning licensure requirements, controlled substance prescribing, CME requirements, PA and CRNP registration and other areas of general interest. Address questions to Editor, Alabama Board of Medical Examiners Newsletter, P.O. Box 946, Montgomery, AL 36101-0946. Questions concerning individuals should be directed to the Executive Director or other appropriate staff at the Board. ●*

# BME sponsored CME activities

These programs receive financial support from the Alabama Board of Medical Examiners, additional educational grants have been provided by GlaxoWellcome, Pharmacia & Upjohn and Perdue Pharmaceuticals.

## 25th ANNUAL REGIONAL CME PROGRAM

“The Aging American”

July 28-30, 2000 – Guntersville State Park

August 4-6, 2000 – Gulf Shores State Park

## Pain, Opioids, and the Law Seminar

October 6, 2000 - Dothan

October 20, 2000 - Montgomery

Watch the MASA Web Site for further information:  
[www.masalink.org](http://www.masalink.org) or call (800) 239-6272

*Alabama Board of Medical Examiners NEWSLETTER* is published quarterly and sent to all physicians who hold a license to practice medicine or osteopathy in the State of Alabama. In publishing this newsletter, the BME hopes to serve an educational purpose, designed to keep the licensed physicians of Alabama updated as to developments in the regulation of the practice of medicine in this state. Regular features of this newsletter are to publish the disciplinary actions of the BME and the Medical Licensure Commission, to publish a calendar of CME programs sponsored by this Board, to highlight certain regulations or policies of the BME and/or the Medical Licensure Commission and to generally provide a forum for the discussions of issues which affect the practice of medicine in the State of Alabama. The Board welcomes your comments, questions or other input.

Larry Dixon, Executive Director, P.O. Box 946, Montgomery, AL 36102-0946 or call (334) 242-4116 or fax (334) 242-4155.  
Please visit our web site: [www.albme.org](http://www.albme.org).

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