



# ALABAMA BOARD OF MEDICAL EXAMINERS **NEWSLETTER**

Volume 20, Number 1  
Spring 2005



## Reporting Impaired, Incompetent, or Unethical Colleagues

*Is there an ethical duty for a physician to report an impaired, incompetent or unethical colleague? The AMA says yes! Its Council on Ethical and Judicial Affairs, CEJA, which oversees the AMA's Code of Medical Ethics, issued the following statement:*

### **H-275.952 Reporting Impaired, Incompetent or Unethical Colleagues**

Physicians have an ethical obligation to report impaired, incompetent, and unethical colleagues. **Physicians should be familiar with the reporting requirements of their own state and comply accordingly.**

- (1) Physicians should work to assure that state laws provide immunity to those who report impaired, incompetent, or unethical colleagues.
- (2) Principles of due process must be observed in the conduct of all disciplinary matters involving physician participants at all levels. However, the confidentiality of the reporting physician should be maintained to the greatest extent possible within the constraints of due process, in order to minimize potential professional recriminations.
- (3) **The medical profession as a whole must correct the misperception that physicians are not adequately protecting the public from**

**incompetent, impaired or unethical physicians by better communicating its efforts and initiatives at maintaining high ethical standards and quality assurance.** (CEJA Rep. A, I-91; Reaffirmed: BOT Rep. 17, I-99; Modified and Reaffirmed: CEJA Rep. 1, A-03; Reaffirmation I-03)

Alabama law also requires a physician to report an impaired, incompetent or unethical colleague. According to Alabama Code 34-24-361(b), "Any physician . . . in . . . Alabama . . . is hereby required to . . . report to the board or the commission any information . . . which appears to show that any physician . . . may be guilty of any of the acts, offenses or conditions set out in Section 34-24-360." Section 34-24-360 lists the grounds for discipline of a medical license, including "Being unable to practice medicine . . . with reasonable skill and safety . . . by reason of illness, inebriation excessive use of drugs, narcotics, alcohol, chemicals or any other substance, or as a result of any mental or physical condition." Other statutory grounds for discipline include conviction of a felony, gross malpractice or negligence, and unprofessional conduct.

So if you as a physician are aware that a colleague appears to be impaired, incompetent, or unethical, it's required that a report be submitted. The report can be made to the Board of Medical Examiners or the Alabama Physician Health Program. Alabama code 34-24-405 (c) states that a report to the APHP "shall be deemed to be a report to the State Board of Medical Examiners for the purposes of any reporting of physician impairment."

Once a report is issued, a confidential investigation is conducted to determine the best course of action. Often, nothing happens for some time, because there is inadequate information or clarity. Once adequate information is available, action may be taken to either discipline the physician or refer him for evaluation and/or treatment. Many problems are remediable and do improve.

The intent of the ethical code and law is to maintain a high standard of credibility and authority for our profession. This is vital to proper medical care for the good of our patients and our profession. We physicians are in a unique position to observe our colleagues, and we have an obligation in this regard to protect patients from potential harm. This is comparable to the law requiring reporting of child abuse, elder abuse, or known homicidal ideation by a patient. Reporting is responsible and protective of patient rights and also serves the well-being of the physician involved.

More information can be obtained by contacting the Board of Medical Examiners at 334-242-4116 or by calling the Alabama Physician Health Program at 334-954-2596.

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## Board Clarifies Application of Pathology Billing Declaratory Ruling

In response to a request for clarification of its August 5, 2004 Declaratory Ruling concerning billing arrangements for pathology services, the Board of Medical Examiners confirmed that its earlier ruling on pathology billing practices is limited to the factual situation stated in that ruling and is not intended by the Board to apply to other factual situations unrelated to the billing of pathology services. Replying to a request from a radiology group,

the Board examined the practice of dividing a global fee for radiology services (which includes both the technical and the professional component) between the treating physician who provides the radiology service and the consulting radiologist who interprets the results. Under this arrangement, the Board found that the billing physician has provided a service to the patient which distinguishes it from the payment arrangement described in the August 5, 2004 Declaratory Ruling. Responding to the request for clarification, the Board stated, "The Board of Medical Examiners has therefore concluded that the August 5, 2004 Declaratory Ruling applicable to the billing of pathology services should not be interpreted to apply to the allocation of a global fee between the patient's treating physician and a radiologist engaged by the treating physician to provide interpretation of diagnostic tests."

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## Board of Medical Examiners Public Action Report February 2005 - April 2005

On February 16, 2005, the Board accepted the voluntary surrender of the certificate of qualification and license to practice medicine in Alabama of **James H. Burgess, M.D.**, license number MD.00000239, Sylacauga, AL.

On February 16, 2005, the Board entered a Joint Petition, Stipulation and Consent Order with **Richard A. Lauderdale, Jr., P.A.**, license number PA.151, Alexander City, AL, wherein Mr. Lauderdale's license to practice as a physician assistant in Alabama was assessed an administrative fine and placed on probation for six months.

On February 16, 2005, the Board entered a Joint Petition, Stipulation and Consent Order with **Zev-David Nash, M.D.**, license number MD.00022079, Montgomery, AL, wherein an administrative fine was assessed.

On March 16, 2005, the Board accepted the voluntary surrender of the certificate of qualification and license to practice medicine or osteopathy in Alabama of **Gregory E. Mick, D.O.**, license number DO.658, Yakima, WA. Dr. Mick is no longer authorized to practice medicine in Alabama.

Based on the stipulation of the parties, the Board entered a Consent Order on April 28, 2005, wherein the license to practice in Alabama as a physician assistant of **Gregory Howard Houston, P.A.**, license number PA.188, Birmingham, AL, was reprimanded and assessed an administrative fine, and he is required to complete certain continuing medical education.

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## Medical Licensure Commission Public Action Report February 2005 - April 2005

On February 9, 2005, the Commission entered an Order terminating all restrictions on the license to practice medicine in Alabama of **Ernest A. Claybon, M.D.**, license number MD.00000007543, Birmingham, AL.

On February 9, 2005, the Commission entered an Order reinstating to full, unrestricted status the license to practice medicine in Alabama of **Victor G. Theriault, M.D.**, license number MD.00008774, Bogalusa, LA.

On February 9, 2005, the Commission entered an Order reinstating to full, unrestricted status the license to practice medicine in Alabama of **Jeffrey D. Neidhart, M.D.**, license number MD.00022918, Farmington, NM.

On February 23, 2005, the Commission entered an Order reinstating to full, unrestricted status the license to practice medicine in Alabama of **Hisham Hakim, M.D.**, license number

MD.00014336, Birmingham, AL.

On February 23, 2005, on an application for reinstatement of license and the Joint Petition and Stipulation of the Board and **Frederick T. Roberts, M.D.**, license number MD.00020835, Columbus, GA, the Commission entered a Consent Order which reinstated the license with indefinite probation and subject to terms and conditions.

On February 28, 2005, the Commission entered an Order revoking the license to practice medicine in Alabama of **Kelly W. White, M.D.**, license number MD.00025776, Columbus, GA.

Based on the Stipulation of the parties, the Commission entered a Consent Order on March 23, 2005, wherein the license to practice medicine in Alabama of **Charles M. McInteer, M.D.**, license number MD.00022296, Albertville, AL, was reprimanded, an administrative fine was issued, and the license was placed on probation, subject to certain terms and conditions.

On April 4, 2005, the Commission entered an Order reinstating with conditions the license to practice medicine in Alabama of **James R. Curtiss, M.D.**, license number MD.00018209, Mobile, AL.

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***Alabama Board of Medical Examiners NEWSLETTER*** is published quarterly for physicians who hold a license to practice medicine or osteopathy in the state of Alabama. The newsletter is designed to keep the licensed physicians of Alabama updated as to developments in the regulation of the practice of medicine in this state. The Board welcomes your comments, questions, or other input.

Larry Dixon, Executive Director, P.O. Box 946, Montgomery, AL 36101-0946 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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# Save the date!

The Caduceus Foundation  
*presents*

## Finding Balance: Life Issues for the Practicing Physician October 14-16, 2005, SanDestin, Florida

The meeting will be held at The SanDestin Golf & Beach Resort, Baytowne Wharf  
Phone: 800-320-8115

*Cut off date for hotel reservations is August 20, 2005*

For more information and to register, please contact the Alabama Physician Health Program  
at 334-954-2596 or 800-239-6272.

# Coming Soon!

Beginning with the Fall 2005 issue, physicians will have the opportunity to receive the *Alabama Board of Medical Examiners Newsletter* electronically. If you would prefer to receive the Newsletter via e-mail, please send your current e-mail address to [bmenews@masalink.org](mailto:bmenews@masalink.org) so we may update our records. Interested organizations and non-physicians will only receive the Newsletter electronically, so be sure to send us your e-mail address to continue receiving this publication.

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