



Alabama Board of Medical Examiners Newsletter and Report

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The value of physician health programs

by Greg Skipper, MD, Medical Director, Alabama Physician Health Program

The first national study of physician health programs (PHPs) was recently conducted. It was carried out by an independent outside research team sponsored by a Robert Wood Johnson Foundation grant. The study sought to identify which states had PHPs, how they were structured and staffed, their scope and purpose, and finally in Phase II, to measure their outcomes by examining records from over 900 participating physicians who had signed monitoring agreements five years or more previously. The key findings from the published results are summarized here along with editorial comments.^{1, 2, 3, 4, 5, 6}

Forty-eight programs (including the one in the District of Columbia) existed at the time of the survey. The three states without PHPs were Georgia, North Dakota, and Nebraska.

Forty-two PHPs participated in the survey (85 percent). All PHPs indicated that their primary goal was “early detection and clinical assistance for troubled physicians.” Most PHPs are set up as independent non-profit foundations (54 percent) and the remainder are located within the state medical associations (35 percent) or are housed within the Medical Board itself (13 percent). No matter their location, their funding primarily comes from regulatory boards (50 percent) with the remainder coming from participant fees (16 percent), state medical associations (10 percent), hospitals (9 percent), and mal-practice companies (6 percent). The average PHP employs five full-time staff.

Comments: PHPs emerged in the late 1970s after the AMA published a paper entitled “The Sick Physician” recommending a proactive approach to assisting troubled physicians suffering from substance abuse or other mental health problems. Regulatory boards recognize the value of PHPs who offer a “confidential clinical approach” that encourages earlier referral of physicians with remedial problems associated with impairment. Regulatory boards subsequently sponsored and promoted PHPs. Not only are PHPs good for patient safety, by encouraging early referral, but PHPs are cost effective by handling cases more expeditiously and by avoiding expensive legal battles. This is so because PHPs are more able to rapidly address cases, based on symptoms, often the very day of a referral, and can conduct an immediate intervention recommending discontinuation of practice and prompt entry into evaluation or treatment. Physicians agree to participate for several reasons, not the least of which is to avoid being reported to the regulatory board. This is in contrast to the regulatory board’s approach, which is by its nature more constrained, usually requiring investigation to obtain evidence, followed by interviews, hearings and finally administrative law procedures, often involving attorneys. This process can take months. The PHP thus helps boards decrease risk to patients (their primary mission), helps preserve physicians’ careers (careers that can be ruined if a patient is harmed because of overt physician impairment) and simultaneously lowers costs.



Greg Skipper, MD

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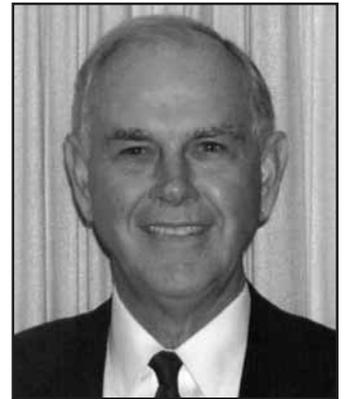
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A Message from the Executive Director Prescribing Controlled Drugs Seminar

by Larry Dixon

The Medical Association of the State of Alabama (MASA) and the Alabama Board of Medical Examiners (BME) jointly sponsor a seminar, "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls," which is highly recommended for all physicians licensed in Alabama who prescribe controlled substances. Additionally, it is a requirement that licensed Physician Assistants (PAs) applying for Qualified Alabama Controlled Substances Certificates (QACSCs) complete this course (see page 4 for the administrative rules containing all the requirements and procedures to apply for a QACSC). The course will be offered at least three times a year at various locations around the state. Presenters include BME physician members, BME staff and other experts.



Larry Dixon

Course content is specific and practical, with information that can be directly applied to your prescribing practices to ensure they are appropriate. A course in Basic and Advanced Pain Management discusses causes of chronic pain, alternative therapies to chronic opioid therapy, when to continue and when to discontinue chronic opioid therapy. There are courses to help you understand addiction, what to do if addiction is suspected, and drug testing. A representative from the Department of Public Health presents an activity about the Physician Drug Monitoring Program, what it is, how it works, how to access information, some of the problems that may be encountered and how to avoid them.

Two important courses are Androgenic Steroids Abuse, which describes the risks of prescribing these steroids, how to recognize the signs of addictiveness and ways to test for abuse, and Prescribing for Obesity: Dos and Don'ts (Mostly Don'ts!), which will enable participants to list various medications that should not be used because of their risk and lack of evidence for efficacy, cite which medications may have efficacy but are still questionable, and understand the various promising medications that are being developed. Additional subjects concern polypharmacy and overdose deaths in Alabama and current scams and problems in the medical office.

Finally, there are two workshops, Non-malignant Chronic Pain Management and Other Prescribing Problems. These workshops define the importance of a functional approach to chronic pain management, examine issues concerning the use of methadone, suboxone, etc., and discuss the issue of self-prescribing and prescribing for family members.

Registration information is available on MASA's Web site (<http://www.masalink.org/news.aspx?id=1981>).

Physician Health Programs

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It's of note that not everyone likes the idea of PHPs. Two states, California and Wisconsin, closed their PHPs over the past year since this study was conducted. The demise of the California PHP was widely publicized on cable news and other media venues. The California program (called the Diversion Program) came under attack by a Nadar-esque citizen's action group claiming that the "secret program" was "hiding bad doctors" and was not safe. The media took advantage of the public's bias against "drug addiction" and inflamed the issue, interviewing individuals who claimed they had been harmed by addicted doctors. These allegations later proved to have nothing to do with physicians in the PHP, but in the meantime the regulatory board, under political pressure, made the decision to close the California PHP.

Services offered by PHPs include: education regarding physician health and well-being (to encourage early referral), non-confrontational intervention, referral of participating doctors to competent providers for evaluation and/or treatment (most PHPs maintain a list of authorized providers who excel in evaluation and treatment of professionals), monitoring (conducted on the basis of a signed agreement between the PHP and physician including such things as drug testing, group therapy, reports from a work-site monitor, and others), and finally the PHP provides advocacy (to agencies such as medical boards, hospitals, and insurance companies) by documenting compliance with monitoring. PHPs accept referrals of physicians with remedial problems including substance abuse, psychiatric problems, disruptive behavior, dementia and physical disabilities.

Comment: PHPs have developed the world's most advanced expertise conducting monitoring. They utilize computerized random drug testing with sophisticated drug test panels and testing schemes, and have developed innovative new alcohol markers (such as ethylglucuronide and ethylsulfate that can detect alcohol use for days rather than hours). Other problems such as disruptive behavior are monitored by utilizing therapy reports and periodic 360 degree behavioral assessments.

In Phase II of the study, 904 consecutive records of physicians monitored for substance abuse for at least five years were examined. The most common substances of abuse by physicians included: alcohol (50 percent), opioids (36 percent), stimulants (8 percent), and other (6 percent). Fourteen percent of participants admitted IV drug use (more common than the general population (9 percent)). Seventeen percent of participants had been arrested at least once (most commonly for DUI) and 9 percent had been convicted. Some medical specialties were over-represent-

ed, including anesthesiology (2.5 times more than would be expected), emergency medicine, psychiatry, and family practice. Some specialties were under-represented, including pediatrics and pathology. The most common sources of referral to PHPs included regulatory boards (22 percent), hospitals (18 percent), self with coercion (14 percent), colleague or partner (14 percent), self without coercion (11 percent) and treatment centers (7 percent). Almost all treatment of substance abusing physicians was abstinence based. In fact, only a few were treated with maintenance opioid therapy (i.e. methadone or buprenorphine) and those were not in active practice. Seventy-eight percent of treatment was inpatient and 22 percent outpatient.

Comments: PHPs were initially established with the primary focus on early detection and treatment of physicians with substance abuse problems. Most (85 percent) gradually expanded their role to address other remedial psychiatric problems, disruptive behavior, etc. Regarding anesthesiologists, despite the fact that they have a much higher rate of problems with substance abuse and despite the fact that there is concern regarding their return to work following treatment, this study reports as good or better outcomes for anesthesiologists as other physicians.⁵

Outcomes for the 904 physicians were reported in several different ways. Regarding relapses, 79 percent of participants had no relapse to substance use after an average of 7.2 years follow-up. Of the 21 percent who had at least

see Physician Health Programs, page 4

Important: Required Info for Prescription Forms

The Board frequently receives telephone calls from pharmacists concerning prescription forms that do not contain the information they need to do their required reporting to the Prescription Drug Monitoring Program data bank. Prescription forms for controlled substances must contain the prescriber's name, address, ACSC and DEA numbers. Pharmacists use the prescriber's DEA number to report to the PDMP data bank. It is vital that prescription forms contain this information so that the PDMP contains accurate information.

For more information and additional requirements for controlled substance prescriptions, please see Board Rule 540-X-4-.05, Controlled Substances Prescription Guidelines for Physicians.

On the Net:

Board Rule 540-X-4-.05 (scroll down to section .05):
<http://www.alabamaadministrativecode.state.al.us/docs/mexam/McWord540-X-4.pdf>

Qualified Alabama Controlled Substances Certificate rules

The following Board of Medical Examiners Administrative Rules, Chapter 540-X-12, Qualified Alabama Controlled Substances Certificate, were published in the Dec. 31, 2009, *Alabama Administrative Monthly* for public comment. The Board will consider the rules for final adoption, along with any comments received, at its Feb. 1, 2009, meeting. The rules were also adopted on an emergency

basis with an effective date of Dec. 1, 2009, so that physician assistants may commence application procedures.

540-X-12-.01 Definitions.

The following definitions shall apply to the rules in this chapter:

- (1) Administer – The direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means,

to the body of a patient by any of the following:

- (a) A supervising physician, or, in his or her presence, his or her authorized agent.
- (b) An assistant to physician.
- (c) The patient at the direction and in the presence of the supervising physician or assistant to physician.

see *QACSC rules, page 6*

Physician Health Programs continued from page 3

one relapse, 70 percent were outside the context of medical practice and 30 percent occurred within the context of practice. The survey asked if there was any evidence in the record that a patient was harmed because of relapse. There was only one case (.1 percent) where a patient was harmed secondary to inappropriate prescribing. As for program completion, 64 percent successfully completed five years of monitoring, 16 percent continued monitoring beyond five years under a new agreement (usually because of a relapse), 10 percent retired, 5 percent had their medical license revoked and 3 percent died (six from suicide). As for licensure, at the end of the monitoring period, 72 percent had an active license without restrictions, 3 percent had an inactive license, 2 percent were retired, 5 percent were active but had restrictions or probation, and only 5 percent had been revoked. Finally, from the perspective of drug tests, there were a total of 73,942 drug tests performed during the period of this study (an average of 94 tests per participant). There were 189 positive drug tests (0.26 percent). This an extremely low rate of positive drug tests.

Comment: This national study was consistent with smaller studies of single states where five- to seven-year outcomes for total abstinence have been approximately 80 percent. These findings are impressive in contrast to the abysmal rates of abstinence from treatment of the general population with substance abuse disorders. It is clear that doctors receive a different type and amount of treatment compared with the general population. Specifically, they receive better evaluations, better and more prolonged treatment, and most importantly they receive long-term monitoring with contingency management.

Physician health programs set a new standard of care and a high level of success for treatment of substance use disorders. These programs appear to be safe (there was only a single documented episode of overt patient harm

from follow-up of the 904 physicians and that involved over-prescribing). The public is better served by having confidential programs that provide early detection and careful monitoring than by exposing addicted doctors, which would delay referral and lead to higher risk of patient harm. State regulatory boards who have had the vision to support PHPs have done the public a great service.

- ¹ White, W.L., DuPont, R.L., Skipper, G.E. (2008). Physician health programs: What counselors can learn from these remarkable programs. *Counselor Magazine*, June 27, 2007, 44-51
- ² McLellan AT, Skipper GE, Campbell M, DuPont RL. Five year outcomes in a cohort study of physicians treated for substance use disorders in the United States. *BMJ*. 2008 Nov 4;a2038, doi:10.1136.a2038
- ³ Skipper GE, DuPont RL. What About Physician Health Programs. *The New Republic*. January 18, 2009 (<http://www.tnr.com/politics/story.html?id=2b230eae-edbb-4b38-951f-75529f5cb2c5>)
- ⁴ DuPont RL, McLellan AT, Carr G, Gendel M, Skipper GE. How are addicted physicians treated? A national survey of physician health programs. *JSAT* 37 (2009) 1-7
- ⁵ Skipper GE, DuPont RL. Anesthesiologists Returning to Work after Substance Abuse Treatment. *Anesthesiology*, V110, No 6, June 2009 1423-24.
- ⁶ Skipper GE, Campbell MD, DuPont RL. Anesthesiologists with Substance Use Disorders: A 5-Year Outcome Study from 16 State Physician Health Programs. *Anesth & Analg* 109(3), Sept 2009, 891-896.
- ⁷ Anonymous: The Sick Physician: Impairment by Psychiatric Disorders, Including Alcoholism and Drug Dependence. *JAMA* 1973: 223(6): 684-7.
- ⁸ Skipper GE, Weinmann W, Wurst FM. Ethylglucuronide (EtG): A New Marker to Detect Alcohol Use in Recovering Physicians. *Journal of Medical Licensure and Discipline*, 2004,90(2), 14-17.

Meet the Board

George C. (Buddy) Smith, Jr., MD, has been a Board member since 2005. He is a board certified family practice physician and has practiced in Clay County, Alabama, since 1983. Dr. Smith also serves as Emergency Room physician on the staff of several hospitals in the Montgomery area and recently was the Medical Director of the Emergency Room at Northeast Alabama Regional Medical Center in Anniston, Alabama. He has served in the past as Medical Director of the Hospice of Clay County and as the chief of staff of Clay County Hospital on several occasions. He currently serves the Board on the Joint Committee for Advanced Practice Nursing and recently completed a year-long stint as Chairman



George C. Smith Jr., MD

of that committee. Dr. Smith received his bachelors degree at Auburn University and his medical degree from the University of Alabama School of Medicine in Birmingham. His postgraduate training was completed in 1986 at Northeast Alabama Regional Medical Center in Anniston, Alabama.



Pamela D. Varner, MD

Pamela D. Varner, MD, a Board member since 1997, is a board certified anesthesiologist who practices in Birmingham, Alabama. She is a Professor in the Department of Anesthesiology at the University of Alabama at Birmingham and is a member of the Physicians Advisory Board to the UAB School of Medicine. Dr. Varner also serves on several other boards and committees in both the professional and civil arenas, including serving on the College of Arts and Sciences Leadership Board at the University of Alabama. After receiving a bachelors degree at the University of Alabama, Dr. Varner completed her medical degree and postgraduate training at the University of Alabama at Birmingham.

Unused vials of Synagis®

The Alabama Medicaid Agency sought guidance from the Board of Medical Examiners and the Alabama Board of Pharmacy concerning unused vials of Synagis® that result when patients do not return for doses or other unforeseen circumstances. The medication has already been billed to Medicaid for a specific patient but not administered to that patient. Pursuant to the Alabama Pharmacy Law, unused medication cannot be returned to the pharmacy.

The Board determined that it would not consider it to be unprofessional conduct, as defined in the rules and regulations of the Board of Medical Examiners, should a physician allow Synagis®, unused by another patient, to be used for other qualified patients within the same physician's practice under the conditions that it is properly stored, within the expiration date, and unopened in the physician's office.

Please note that unused Synagis® may be used for other *qualified* patients, and does not circumvent the prior authorization process. It is expected that if unused Synagis® previously billed and paid under Alabama Medicaid exists, a *qualified Medicaid recipient* receive the unused medication with **no duplicative billing to Medicaid**. Only if another qualified Medicaid recipient is not available should the unused medication be used for another qualified patient.

Alabama Medicaid, the Board of Medical Examiners and physician's offices all agree that this costly medication should not be wasted. This clarification will help eliminate unused medication, save state funds and provide controlled utilization.

Meet the Staff

Jackie Baskin has been the Licensure Director for the Board since August 1998. She receives all applications for certificates of qualification and is responsible for ensuring that applicants meet all statutory requirements for licensure and that the applications are complete. Ms. Baskin issues certificates of qualification to approved applicants and handles applications for the reinstatement of certificates of qualification. Her duties keep her in constant contact with applicants, residency programs and licensing services.

QACSC rules

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- (2) Assistant to Physician (P.A.) – Any person who is a graduate of an approved program, is licensed by the Board of Medical Examiners, and is registered by the Board to perform medical services under the supervision of a physician approved by the Board to supervise an assistant to physician.
- (3) Board – The Board of Medical Examiners of the State of Alabama.
- (4) Dispense – To deliver a controlled substance to an ultimate user by or pursuant to the lawful order of a physician or Physician Assistant, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.
- (5) Excessive Dispensing – A registrant may be considered to have excessively dispensed a controlled substance if the Board finds that either the controlled substance was dispensed for no legitimate medical purpose, or that the amount of the controlled substance dispensed is not reasonably related to the proper medical management of the patient's illness or condition. Drug addiction shall not be considered an illness or condition which would justify the continued dispensing of a controlled substance, except in gradually decreasing dosages administered to the patient for the purpose of curing the addiction.
- (6) Physician Supervision – A formal relationship between a licensed assistant to physician and a supervising physician under whom the assistant to physician is authorized to practice as evidenced by a written job description approved in accordance with Article 7, Chapter 24, Title 34, *Code of Alabama*. Physician supervision requires that there shall be at all times a direct continuing and close supervisory relationship between the assistant to physician and the supervising physician to whom that assistant is registered. The term supervision does not require direct on-site supervision of the assistant to physician; however, it does require the professional oversight and direction as may be required by the regulations and guidelines of the Board of Medical Examiners.
- (7) Prescribe or Prescribing – The act of issuing a prescription for a controlled substance.
- (8) Prescription – Any order for a controlled substance written or signed or transmitted by word of mouth, telephone, telegraph, closed circuit television or other means of communication by a legally competent supervising physician or assistant to physician authorized by law to prescribe and administer such drug which is intended to be filled, compounded, or dispensed by a pharmacist.
- (9) QACSC – Qualified Alabama Controlled Substances Registration Certificate.
- (10) Supervising Physician – A doctor of medicine or a doctor of osteopathy licensed to practice medicine in Alabama who has been approved by the Board of Medical Examiners to supervise assistants to physicians and who holds a valid, current, and unrestricted Alabama Controlled Substances Registration Certificate.

540-X-12-.02 General Requirements.

- (1) The Board is the certifying board which may issue or deny a QACSC to an assistant to physician.
- (2) Beginning the calendar year 2010, QACSCs may be issued by the Board to Physician Assistants (P.A.s).
- (2) Although the Board recognizes two categories of assistants to physicians, only a person licensed and registered by the Board as a Physician Assistant (P.A.) may be issued a QACSC.
- (3) A P.A. who prescribes, administers authorizes for administration or dispenses any controlled substance within Alabama or who proposes to engage in the prescribing, administering, authorizing for administration or dispensing of any controlled substance within Alabama shall obtain, annually, a QACSC for each registration of the P.A. by the Board to perform medical services under the supervision of a physician.
- (4) A P.A. who prescribes, administers, authorizes for administration or dispenses, or who proposes to engage in the prescribing, administering, authorizing for administration or dispensing

see QACSC rules, page 7

Your Medical License

As a physician, your license to practice medicine in the State of Alabama is one of your most important assets. It allows you to apply what you learned during years of school and post-graduate training to earn a livelihood to support your family. Exercise care to protect this asset.

QACSC rules

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of any controlled substance within Alabama shall obtain the appropriate registration or registrations issued by the United States Drug Enforcement Administration.

540-X-12-.03 Requirements for the Issuance of a Qualified Alabama Controlled Substances Registration Certificate (QACSC).

To qualify for a QACSC, an individual must meet the following requirements:

- (1) Be a Physician Assistant (P.A.) who holds a current and unrestricted license issued by the Board and who is registered by the Board to perform medical services under the supervision of a physician who holds a valid, current and unrestricted Alabama Controlled Substances Registration Certificate (ACSC);
- (2) Be a P.A. who is practicing with appropriate physician supervision and in accordance with all statutes and rules governing P.A.s;
- (3) Submit proof of successful completion of twelve (12) hours of *AMA PRA Category 1 credits*TM or the equivalent continuing medical education (CME), which shall include the following:
 - (a) "Prescribing Controlled Drugs; Critical Issues and Common Pitfalls," a continuing medical education course jointly sponsored by the Board and the Medical Association of the State of Alabama (8 *AMA PRA Category I*TM credits).
 - (b) Four (4) *AMA PRA Category I*TM credits or equivalent through a Board approved course or courses that include advanced phar-

macology and prescribing trends relating to controlled substances.

- (4) Complete the required twelve (12) credits within one (1) year preceding the filing of an application for a QACSC.
- (5) Provide accurate and complete documentation of a minimum of twelve (12) months of active clinical employment with physician supervision following National Commission on Certification of Physician Assistants (NCCPA) certification.
- (6) Submit an application on forms provided by the Board.
- (7) Pay the required application fee required by the Board.

540-X-12-.04 Issuance of a Qualified Alabama Controlled Substances Registration Certificate (QACSC).

- (1) The Board may issue a QACSC to a P.A. when all of the requirements for issuance have been met.
- (2) Every QACSC issued shall have a unique QACSC number which identifies the particular applicant as a P.A. with a valid QACSC.

540-X-12-.05 Renewal of a Qualified Alabama Controlled Substances Registration Certificate (QACSC).

- (1) Renewal of a QACSC shall be annually on or before January 1st of each year. An application for annual renewal of a QACSC shall be received by the Board on or before December 31st and shall be accompanied by the required QACSC renewal fee.
- (2) The Board shall not renew the QACSC of any P.A. when an administrative fine has been assessed by the Board until such fine is paid in full. In the event that the fine is subsequently reduced or set aside on judicial

Potential indicators of prescription drug abuse/fraud

from USDOJ brochure, *Guidelines for Combating Prescription Drug Abuse and Fraud*

- Patient hesitant or unclear about pertinent personal information such as home address, phone number, date of birth, social security number, photo ID
- Patient requests specific controlled substances
- Patient repeatedly runs out of medication early
- Patient rapidly requests increases in controlled substances
- Patient requests controlled substances after hours, on holidays or weekends
- Patient requests unscheduled refills
- Patient unwilling to try nonopioid treatments
- Patient continues to use after medical problem has been resolved
- Patient engages in doctor shopping
- Patient moves frequently from one primary care physician to another
- Patient shows evidence of withdrawal symptoms at appointments
- Patient forges prescriptions from nonmedical or multiple medical sources

review, the P.A. shall be entitled to a prompt refund of the amount of the fine, but shall not be entitled to interest thereon.

- (3) As a requirement for renewing a QACSC, a P.A. shall obtain four (4) *AMA PRA Category 1 credits*TM or equivalent regarding the prescribing of controlled substances every two years.

see *QACSC rules*, page 8

QACSC rules

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540-X-12-.06 Fees - Qualified Alabama Controlled Substances Registration Certificate (QACSC).

- (1) An applicant for a QACSC shall submit to the Board an application fee in the amount of One Hundred and Ten Dollars (\$110.00), which includes the fee payable to the Alabama Department of Public Health Prescription Drug Monitoring Data Bank required by Ala. Code § 20-2-217.
- (2) An applicant for annual renewal of a QACSC shall submit to the Board a QACSC renewal fee in the amount of Sixty Dollars (\$60), which includes the fee payable to the Alabama Department of Public Health Prescription Drug Monitoring Data Bank required by Ala. Code § 20-2-217.

540-X-12-.07 Utilization of Qualified Alabama Controlled Substances Registration Certificate (QACSC) - Limitations.

- (1) The authority of a P.A. to prescribe, administer, authorize for administration or dispense pursuant to a QACSC is limited to those controlled substances enumerated in Schedules III, IV and V.
- (2) A P.A. shall not prescribe, administer, authorize for administration, or dispense any controlled substance enumerated in Schedule I or Schedule II.
- (3) A P.A. shall prescribe, administer, authorize for administration or dispense controlled substances in accordance with the requirements of Ala. Code §§ 20-2-60 through 20-2-69; any other applicable sections of the Alabama Uniform Controlled Substances Act (Ala. Code §

- 20-2-1, et. seq.); Board rules; protocols and medical regimens established by the Board for regulation of a QACSC; and any requirements or limitations established in an approved formulary by the supervising physician to whom the Physician Assistant is registered.
- (4) A P.A. shall not utilize his or her QACSC for the purchasing, obtaining, maintaining or ordering of any stock supply or inventory of any controlled substance in any form.
- (5) A P.A. who has been issued a valid and current QACSC may accept from pharmaceutical representatives prepackaged samples or starter packs in their original packages or containers for controlled substances enumerated in Schedules III, IV or V, subject to any restriction or limitations on the P.A.'s approved formulary and subject to any protocols or medical regimens established by the Board.
- (6) A P.A. shall not prescribe, administer, authorize for administration or dispense any controlled substance to his or her own self, spouse, child or parent.

540-X-12-.08 Grounds for Denial and Discipline - Qualified Alabama Controlled Substances Registration Certificate (QACSC).

The Board may deny a P.A.'s application for a QACSC, deny a P.A.'s application for renewal of a QACSC, or initiate disciplinary action against a P.A. possessing a QACSC based on the following grounds:

- (1) Fraud or deceit in applying for, procuring, or attempting to procure a QACSC in the state of Alabama.
- (2) Conviction of a crime under any state or federal law relating to any controlled substance.

- (3) Conviction of a crime or offense which affects the ability of the P.A. to practice with due regard for the health or safety of his or her patients.
- (4) Prescribing a drug or utilizing a QACSC in such a manner as to endanger the health of any person or patient of the P.A. or supervising physician.
- (5) Suspension or revocation of a registration number issued to the P.A. by the United States Drug Enforcement Administration.
- (6) Excessive dispensing or prescribing of a controlled substance to any person or patient of the P.A. or supervising physician.
- (7) Unfitness or incompetence due to the use of or dependence on alcohol, chemicals, or any mood altering drug to such an extent as to render the P.A. unsafe or unreliable to prescribe drugs or to hold a QACSC.
- (8) Any violation of a requirement set forth in Ala. Code §§ 20-2-60 through 20-2-69; a rule of the Board; a protocol or medical regimen adopted by the Board; or a limitation established by the supervising physician in an approved formulary.

540-X-12-.09 Due Process Proceedings, Denial and Discipline - Qualified Alabama Controlled Substances Registration Certificate (QACSC).

- (1) Before denying an application for a QACSC, denying an application for renewal of a QACSC or disciplining a P.A. possessing a QACSC, the Board shall serve upon the P.A. an order to show cause why registration should not be denied or disciplined.
- (2) Any hearing concerning the order to show cause shall be before the Board.

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QACSC rules

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- (3) The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the Board at a time and place not less than thirty (30) days after the date of service of the order, but in the case of denial of renewal of registration, the show cause order shall be served not later than thirty (30) days before the expiration of the registration.
- (4) Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.
- (5) The Board may restrict, suspend or revoke a QACSC or assess an administrative fine against a QACSC whenever a P.A. shall be found guilty on the basis of substantial evidence of any of the acts or offenses enumerated in Rule 540-X-12-.08.
- (6) The Board may limit revocation or suspension of a QACSC to the particular controlled substance with respect to which grounds for revocation or suspension exist.
- (7) The Board shall promptly notify the Drug Enforcement Administration of the United States Department of Justice of all orders suspending or revoking a QACSC.
- (8) Any hearing before the Board shall be considered a contested case under the Alabama Administrative Procedure Act, Section 41-22-1, and shall be conducted in accordance with the requirements of that Act.
- (9) In a hearing on the request for reinstatement of a QACSC, the Board has the authority to reinstate or deny reinstatement of a

QACSC. In a hearing on a request for reinstatement of a QACSC, the applicant shall have the burden of establishing to the reasonable satisfaction of the Board that the applicant is entitled to the specific relief requested.

540-X-12-.10 Conduct of Hearings - Qualified Alabama Controlled Substances Registration Certificate (QACSC).

Except when Ala. Code §§ 20-2-60 through 20-2-69 and Rule 540-X-12-.09 are in conflict and shall take precedence, hearings related to a QACSC are to be governed and conducted in accordance with Board Rules 540-X-6-.03 (Hearing Officer); 540-X-6-.04; and 540-X-6-.05.

540-X-12-.11 Administrative Fines - Qualified Alabama Controlled Substances Registration Certificate (QACSC).

- (1) In addition to the penalty of restricting, suspending or revoking a QACSC, the Board may assess an administrative fine not to exceed One Thousand Dollars (\$1,000) for each violation of any of the provisions of Ala. Code § 20-2-64, Rule 540-X-12-.08, or any Board rule governing the issuance, possession or utilization of a QACSC.
- (2) All administrative fines levied by the Board shall be due and payable to the Board within thirty (30) days from the date the fine is levied.
- (3) All administrative fines received by the Board shall be deposited to the general revenues of the Board and may be expended for the general operation of the Board.

540-X-12-.12 Administrative Costs - Qualified Alabama Controlled Substances Registration Certificate (QACSC).

- (1) Administrative costs may be ordered by the Board in the following situations:
 - (a) A P.A. has been found by the Board to be in violation of any of the provisions of Ala. Code § 20-2-64 or Rule 540-X-12-.08.
 - (b) The application of a P.A. for a QACSC has been denied by the Board.
 - (c) The application of a P.A. for renewal of a QACSC has been denied by the Board.
 - (d) The application of a P.A. for reinstatement of a QACSC has been denied by the Board.
- (2) Administrative costs are the actual costs, fees and expenses incurred by the Board in connection with any due process hearing concerning a QACSC or in connection with any investigation of the Board to determine eligibility of an applicant for a QACSC.
- (3) Administrative costs include the following:
 - (a) Costs of independent medical review and expert testimony.
 - (b) Fees and expenses paid by the Board to outside counsel.
 - (c) Travel expenses for Board staff.
 - (d) Costs and expenses for documentary evidence.
 - (e) Deposition costs, court reporter fees and costs, and transcript costs.
 - (f) Witness fees and expenses.
 - (g) Fees and costs for necessary interpreter services.
 - (h) Fees and expenses for necessary consultants.
- (4) Claims for administrative costs shall be submitted for review by

see QACSC rules, page 10

QACSC rules

continued from page 9

the Board pursuant to a verified bill of costs on a form approved by the Board. The bill of costs shall be filed with the Board Secretary within twenty-one (21) days from the close of evidence in the proceeding. Any ruling on administrative costs shall be made by the Board at the scheduled monthly meeting following submission of the bill of costs.

- (5) Payment of the administrative costs ordered by the Board shall be made and enforced in the same manner as an administrative fine stated in Rule 540-X-12-.11.

540-X-12-.13 Appeals - Qualified Alabama Controlled Substances Registration Certificate (QACSC).

- (1) A P.A. may obtain judicial review when adversely affected by any of the following:
- (a) An order of the Board denying an application for a QACSC.
 - (b) An order of the Board denying an application for renewal of a QACSC.
 - (c) An order of the Board suspending, revoking or restricting a QACSC or assessing an administrative fine against a QACSC.
 - (d) An order of the Board denying reinstatement of a QACSC.
- (2) Judicial review of an order of the Board may be obtained by filing a written petition for review with the Circuit Court of Montgomery County in accordance with Ala. Code § 41-22-20.
- (3) The following procedures shall take precedence over Ala. Code § 41-22-20(c) relating to the

issuance of a stay of any order of the Board suspending, revoking or restricting a QACSC. The suspension, revocation or restriction of a QACSC shall be given immediate effect and no stay or supersedeas shall be granted pending judicial review of a decision by the Board to suspend, revoke or restrict a QACSC unless a reviewing court, upon proof by the party seeking judicial review, finds in writing that the action of the Board was taken without statutory authority, was arbitrary or capricious or constituted a gross abuse of discretion.

- (4) From the judgment of the Circuit Court, either the Board or the affected party who invoked judicial review may obtain a review of any final judgment of the Circuit Court pursuant to Ala. Code § 41-22-21. No security shall be required of the Board.

540-X-12-.14 Access to Records - Qualified Alabama Controlled Substances Registration Certificate (QACSC).

The Board, its agents, attorneys, investigators, or inspectors shall be permitted access to inspect and copy any records of a P.A., including patient records, which relate to a request for a QACSC; a renewal of a QACSC; possible violations of any of the provisions of the Alabama Uniform Controlled Substances Act; possible violations of Ala. Code §§ 20-2-60 through 20-2-69; or possible violations of any Board rule governing a QACSC.

540-X-12-.15 Covering Physician - Qualified Alabama Controlled Substances Registration Certificate (QACSC).

- (1) A covering physician, as defined and designated in Board Rule

540-X-7-.24, who applies to supervise or does supervise a P.A. possessing a QACSC, shall hold a valid, current and unrestricted Alabama Controlled Substances Registration Certificate (ACSC).

- (2) The covering physician shall state in writing to the Board the following:
- (a) That he or she is familiar with the Board rules concerning the QACSC;
 - (b) That he or she is familiar with any protocols or medical regimens adopted by the Board concerning the QACSC;
 - (c) That he or she is familiar with any limitation on the prescribing of controlled substances agreed to in the approved formulary by the P.A. and the supervising physician to whom the P.A. is registered; and
 - (d) That, having full knowledge of the authority of the P.A. to prescribe controlled substances, he or she agrees to supervise the P.A. accordingly.

540-X-12-.16 Controlled Substances Prescription Database Access.

All P.A.s possessing a QACSC who are permitted access to the information in the controlled substances database shall abide by the requirements and limitations stated in Ala. Code §§ 20-2-210 through 20-2-220, where applicable.

Author: Alabama Board of Medical Examiners

Statutory Authority: Code of Alabama § 20-2-60, et. seq., Act 2009-489

History: Approved for publication: November 18, 2009.

Continuing Medical Education

As announced in the previous *BME Newsletter and Report*, the continuing medical education requirement for physicians and physician assistants has been increased to 25 AMA PRA Category 1 Credits™ or equivalent annually. Physicians and physician assistants will certify on their applications for license renewal for 2011 that they earned 25 AMA PRA Category 1 Credits or equivalent during the calendar year 2010, on the applications for renewal for 2012, that 25 AMA PRA Category 1 Credits or equivalent were earned during the calendar year 2011, and so on.

For one year only, and for physicians only, the Board will allow the carryover of credits earned during calendar year 2009 that are in excess of the 2009 requirement (12 credits) to be added to credits earned in 2010 to meet the increased requirement for 2011 renewal (25 credits).

For example:

2008 – Earned 20 credits

2008 requirement = 12 credits

Credits to apply to 2009 = 8

2009 – Earned 10 credits

2009 requirement = 12 credits

8 credits from 2008 applied to requirement for 2009

4 credits from 2009 added to requirement for 2009 to equal 12

Credits to apply to 2010 = 6 (10 - 4)

2010 – 4 credits accrued from 2009

Earn 21 credits (21 + 4 = 25)

Credits in excess of 21 will not apply to 2011

2011 – Earn 25 credits during calendar year

2012 – Earn 25 credits during calendar year

On the Net:

Board of Medical Examiners Web page concerning CME:

<http://www.albme.org/Default.aspx?Page=CME>

Report of Public Actions of the Medical Licensure Commission and Board of Medical Examiners

MLC – October 2009

◆ On Oct., the Commission entered an Order reprimanding the license to practice medicine in Alabama of **Marc E. Berry, MD**, license number MD.20244, Birmingham, AL, and assessing administrative costs, based on failure to comply with CME requirements.

MLC – November 2009

◆ On Nov. 9, the Commission entered an Order terminating the probationary status of the license to practice medicine in Alabama of **Frederick T. Roberts, MD**, license number MD.20835, Columbus, GA, and restoring the license to full, unrestricted status.

BME – November 2009

◆ On Nov. 18, the Board accepted the voluntary surrender of the certificate of qualification and license to practice medicine in Alabama of **Timothy M. Iliff, MD**, license number MD.10759, Mobile, AL.

MLC – December 2009

None to date

BME – December 2009

◆ Effective Dec. 21, the license to practice medicine in Alabama of **Jason M. Hunt, MD**, license number MD.29076, Guntersville, AL, is temporarily suspended until such time as the Administrative Complaint of the Board of Medical Examiners shall be heard and a decision rendered thereon.



News you can use from the Federation of State Medical Boards

The Federation of State Medical Boards (FSMB) co-sponsors regional pain management seminars with the American Academy of Family Physicians (AAFP). These seminars are part of an AAFP program offering local, free CME to family physicians and primary care physicians from leading experts. Other sponsors include the Center for Practical Bioethics and the American Academy of Pain Medicine. Upcoming seminars include San Antonio, Texas, Jan. 9, 2010; Seattle, Wash., Feb. 20, 2010; and Atlanta, Ga., Mar. 13, 2010.

The most important difference between a good and indifferent clinician lies in the amount of attention paid to the story of a patient.

– Sir Farquhar Buzzard, *Lancet*, 1933



Alabama State Board of Medical Examiners

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Change of Address

Alabama law requires that every licensed physician notify the Board of Medical Examiners in writing within **15 days** of a change of the physician's practice location address and/or mailing address.