Volume 11, Issue 3

July 2007
September 2007

West Virginia Board of Medicine Quarterly Newsletter

NOTICE

The West Virginia Board of Medicine adopted the following Policy at its meeting in July, 2007.

PUBLIC POLICY STATEMENT ON SURGERY USING LASERS, PULSED LIGHT, RADIOFREQUENCY DEVICES, OR OTHER TECHNIQUES

Surgery is performed for the purpose of structurally altering the human body by the incision or destruction of tissues and is a part of the practice of medicine. Surgery is also the diagnostic or therapeutic treatment of conditions or disease processes by any instruments causing localized alteration or transposition of live human tissue, which include lasers, ultrasound, ionizing radiation, scalpels, probes, and needles. The tissue can be cut, burned, vaporized, frozen, sutured, probed, or manipulated by closed reduction for major dislocations and fractures, or otherwise altered by any mechanical, thermal, light-based, electromagnetic, or chemical means. Iniection of diagnostic or therapeutic substances into body cavities, internal organs, joints, sensory organs, and the central nervous system is also considered to be surgery (this does not include administration by nursing personnel of some injections, such as subcutaneous, intramuscular, and intravenous when ordered by a physician). All of these surgical procedures are invasive, including those that are performed with lasers, and the risks of any surgical intervention are not eliminated by using a light knife or laser in place of a metal knife or scalpel.

In recent years, technological advances have made it possible to perform cosmetic surgical procedures of the skin using a variety of devices and techniques. Lasers, pulsed light, and radiofrequency devices are often used for ablative and nonablative treatments. An ablative treatment is expected to excise, burn, or vaporize the skin below the dermo-epidermal junction. Nonablative treatments are those that are not expected or intended to excise, burn, or vaporize the epidermal surface of the skin. Any procedures that can damage the eye (cornea to retina) are ablative and should only be performed by a licensed physician.

The American College of Surgeons believes that surgery using lasers, pulsed light, radiofrequency devices, or other means is part of the practice of medicine and constitutes standard forms of surgical intervention. It is subject to the same regulations that govern the performance of all surgical procedures, including those that are ablative or nonablative, regardless

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PUBLIC POLICY STATEMENT ON SURGERY USING LASERS, PULSED LIGHT, RADIOFREQUENCY DEVICES, OR OTHER TECHNIQUES

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of site of service (that is, hospital, ambulatory surgery center, physician's office, or other locations). Patient safety and quality of care are paramount, and the College therefore believes that patients should be assured that individuals who perform these types of surgery are licensed physicians (defined as doctors of medicine or osteopathy) who meet appropriate professional standards. This is evidenced by comprehensive surgical training and experience, including the management of complications, and the acquisition and maintenance of credentials in the appropriate surgical specialties (that is, board certification) and in the use of lasers, pulsed light, radiofrequency devices, or other similar techniques.

However, the College also recognizes that the use of ablative lasers may be delegated to non-physician advanced health care practitioners (defined as nurse practitioners or physician assistants) who are appropriately trained and licensed by the state in which they practice. Ablative treatments or procedures performed by nonphysician advanced health care practitioners should fall within the statutory and/or regulatory scope of the practitioner's profession. The physician may delegate the performance of ablative treatments through the use of written protocols to an advanced health care practitioner. Direct supervision should be provided by the physician whenever performance of ablative treatments has been delegated to an advanced health practitioner, unless specific state regulations allow for lesser amounts of supervision. The physician is responsible for doing the initial review of the patient and for authorizing the treatment plan. This should be appropriately noted in the patient's chart prior to any initial ablative treatment.

Physicians may also delegate the performance of nonablative treatments to nonphysician health practitioners (defined as registered nurses, cosmetologists, aestheticians, and medical assistants or other qualified personnel), provided the treatments are performed under direct supervision by the physician consistent with state laws and regulations in the state where they practice. The physician must also assure that these practitioners are appropriately trained, licensed by the state in which they practice, practicing within the scope of their licensure, and provided with written protocols. Similar to ablative treatments, the physician is responsible for doing the initial review of the patient and for authorizing the treatment plan, and this should be appropriately noted in the patient's chart prior to any initial nonablative treatment.

In those cases where the surgeon may utilize the services of a nonphysician advanced health practitioner or nonphysician health practitioner as an assistant during the performance of laser surgery (including ablative or nonablative procedures), the assistant must meet the following requirements:

- •Be properly licensed, certified, and/or credentialed to practice his or her profession;
- •Have appropriate education and training for assisting the surgeon in laser surgery procedures; and
- •Complete assigned duties under the direct supervision of the surgeon performing the procedure.

Individuals who perform laser surgery utilizing lasers, pulsed light, radiofrequency devices, or other techniques should meet the principles of the College in all respects (see http://www.facs.org/fellows_info/statements/stonprin.html), to include the avoidance of any misrepresentations to the public regarding unfounded advantages of the laser compared with traditional operative techniques.

This statement is adopted from the American College of Surgeons, ST-11, adopted February 9, 2007.

REMINDER TO SUPERVISING PHYSICIANS OF PHYSICIAN ASSISTANTS

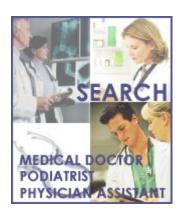
Regardless of the administrative make-up of any practice setting, by law, the legal responsibility for any physician assistant remains that of his or her supervising physician at all times. The supervising physician is responsible for observing, directing, and evaluating the work, records, and practices performed by the physician assistant. The presence of a human resources/personnel department or credentialing committee in a facility does not diminish nor negate these responsibilities. They are not transferable. It is the supervising physician who ultimately stands accountable.

REMINDER ABOUT DEA REGISTRATION NUMBERS

The Drug Enforcement Administration opposes the use of a DEA registration number for any purpose other than to provide certification of DEA registration for transactions involving controlled substances. The use of a DEA registration number as an identification number is not appropriate and could lead to a weakening of the registration system, all according to the DEA Practitioner's Manual. For this reason, it is preferable that a practitioner's DEA number not be printed on prescriptions, but rather there should be a place on the prescription for writing in the DEA number each time a controlled substance is prescribed.

REMINDER ABOUT CHANGE OF ADDRESSES

Licensees are reminded that Board of Medicine staff must have correct mailing address information. Licensees who are unsure as to whether the Board of Medicine has their correct addresses on file may access "SEARCH" at www.wvdhhr.org/wvbom. They may also call the West Virginia Board of Medicine at 304.558.2921, extension 220.



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AVAILABILITY OF SPECIAL VOLUNTEER MEDICAL LICENSES

The Board may issue a Special Volunteer Medical License to a retiring or retired physician without payment of fees, and civil immunity is provided for voluntary services rendered to indigent people, as long as the clinic where the physician will be providing the services has a written agreement with the physician to render the services and provided as well that the clinic maintains liability coverage of not less than one million dollars per occurrence.

These licenses are issued on an annual basis. Thirteen (13) people in West Virginia currently hold a Special Volunteer Medical License. The application is a simple one and the Special Volunteer Medical License is free. If you are interested in obtaining more information, contact the Board's Licensure Analyst, Sheree Smith, at 304.558.2921, Extension 221.

West Virginia Board of Medicine Board Members

John A. Wade, Jr., M.D., President Point Pleasant

Lee Elliott Smith, M.D., Vice President Princeton

Catherine Slemp, M.D., M.P.H., Secretary Charleston

> Rev. Richard Bowyer Fairmont

Michael L. Ferrebee, M.D. Morgantown

Angelo N. Georges, M.D. Wheeling

Doris M. Griffin, M.B.A. Martinsburg

M. Khalid Hasan, M.D. Beckley

Beth Hays, M.A. Bluefield

J. David Lynch, Jr., M.D. Morgantown

Vettivelu Maheswaran, M.D. Charles Town

> Bill May, D.P.M. Huntington

Leonard Simmons, D.P.M. Fairmont

Badshah J. Wazir, M.D. South Charleston

Kenneth Dean Wright, P.A.-C. Huntington

LONG-TIME EMPLOYEE RESIGNS

Crystal D. Lowe resigned her position as the Board's Licensure Analyst effective September 5, 2007. Crystal accepted a position at Charleston Area Medical Center, General Division, as a Credentialing Specialist. Crystal began working with the Board in December, 1995, and has been a devoted employee of the Board ever since. She has received numerous accolades over the years for her hard work and dedication and will be missed by all. The Board wishes her the best in her future endeavors.

BOARD EMPLOYEE PROMOTED

Sheree J. Smith, the Board's former Complaint Coordinator, has been promoted to the position of Licensure Analyst. Ms. Smith was originally hired in March, 2003, as the Board's Verification Coordinator and was promoted to Complaint Coordinator in March, 2004. She has now assumed the responsibilities of the Licensure Analyst. Please welcome Sheree to this new position.

Ext#	Staff of the West Virginia Board of Medicine 304.558.2921		
227	Robert C. Knittle, M.S.	Executive Director	
214	Deborah Lewis Rodecker, J.D.	Counsel	
215	John K. McHugh, J.D.	Disciplinary Counsel	
212	M. Ellen Briggs	Administrative Assistant to the Executive Director	
222	Leslie A. Higginbotham	Investigator, CMI	
210	Charlotte A. Jewell	Physician Assistant Coordinator	
216	Michael R. Lilly	Information Systems Coordinator	
224	Pennie Price	Receptionist/Certification and Verification Coordinator	
220	Deb Scott	Fiscal Officer	
221	Sheree J. Smith	Licensure Analyst	

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BOARD ACTIONS July 2007 — September 2007



ADKINS, CATHERINE ANNE, M.D. – Parkersburg, WV (09/10/2007)

WV License No. 19601

<u>Board Conclusion</u>: Violation of Board Rule concerning completion of continuing medical education requirement. <u>Board Action</u>: Dr. Adkins paid to the Board a CIVIL FINE in the amount of \$100 per credit hour for her prior deficiency of two (2) hours of continuing medical education in the subject of end-of-life care, including pain management, for the licensure renewal period from July 1, 2004, to June 30, 2006, or a total of \$200.

ALLARA, ROBERT DAVID, M.D. - Charleston, WV (08/04/2007)

WV License No. 14971

<u>Board Conclusion</u>: Inability to practice medicine and surgery with reasonable skill and safety due to abuse of drugs; unprofessional conduct; failure to maintain records; prescribing other than in good faith; and failure to practice acceptably.

<u>Board Action</u>: Effective August 4, 2007, Dr. Allara's license to practice medicine and surgery in the State of West Virginia is voluntarily SURRENDERED to the Board to enable him to enter an appropriate in-patient treatment program for care, counseling, and treatment for substance abuse and/or dependency. Dr. Allara's license shall remain surrendered until such time as he has successfully completed the Board-approved in-patient treatment program, he has appeared before the Licensure Committee of this Board, and the Board has determined that Dr. Allara is able to practice medicine and surgery in the State of West Virginia without harm to himself or the public, and has reinstated his license to practice medicine and surgery, either in whole or in part.

BARBERIA, REGINA MARGARET, M.D. - Wheeling, WV (09/10/2007)

WV License No. 07242

<u>Board Conclusion</u>: Violation of Board Rule concerning completion of continuing medical education requirement. <u>Board Action</u>: Dr. Barberia paid to the Board a CIVIL FINE in the amount of \$100 per credit hour for her prior deficiency of two (2) hours of continuing medical education in the subject of end-of-life care, including pain management, for the licensure renewal period from July 1, 2004, to June 30, 2006, or a total of \$200.

BOIKO, IOURI GEORGE, M.D. - Charleston, WV (09/10/2007)

WV License No. 22186

<u>Board Conclusion</u>: Violation of Board Rule concerning completion of continuing medical education requirement. <u>Board Action</u>: Dr. Boiko paid to the Board a CIVIL FINE in the amount of \$100 per credit hour for his prior deficiency of two (2) hours of continuing medical education in the subject of end-of-life care, including pain management, for the licensure renewal period from July 1, 2004, to June 30, 2006, or a total of \$200.

COCCARO, PETER JOSEPH, M.D. - Rainelle, WV (09/10/2007)

WV License No. 21897

<u>Board Conclusion</u>: Violation of Board Rule concerning completion of continuing medical education requirement. <u>Board Action</u>: Dr. Coccaro paid to the Board a CIVIL FINE in the amount of \$100 per credit hour for his prior deficiency of two (2) hours of continuing medical education in the subject of end-of-life care, including pain management, for the licensure renewal period from July 1, 2004, to June 30, 2006, or a total of \$200.

FAUTEUX, MARY B., P.A.-C. - Cambridge, OH (08/06/2007)

WV License No. 00786

<u>Board Conclusion</u>: Failure to comply with the provisions of W. Va. Code § 30-3-1 and unprofessional conduct. <u>Board Action</u>: PUBLICLY REPRIMANDED for continuing to practice as a physician assistant when she was not certified by the National Commission on Certification of Physician Assistants. Ms. Fauteux paid a CIVIL FINE in the amount of \$250 to the Board.



BOARD ACTIONS July 2007 — September 2007



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GROSS, DONALD ANDREW, M.D. - Barboursville, WV (09/10/2007)

WV License No. 22015

<u>Board Conclusion</u>: Violation of Board Rule concerning completion of continuing medical education requirement. <u>Board Action</u>: Dr. Gross paid to the Board a CIVIL FINE in the amount of \$100 per credit hour for his prior deficiency of two (2) hours of continuing medical education in the subject of end-of-life care, including pain management, for the licensure renewal period from July 1, 2004, to June 30, 2006, or a total of \$200.

HANDRIGAN, MICHAEL THOMAS, M.D. - Laurel, MD (09/10/2007)

WV License No. 21852

<u>Board Conclusion</u>: Violation of Board Rule concerning completion of continuing medical education requirement. <u>Board Action</u>: Dr. Handrigan paid to the Board a CIVIL FINE in the amount of \$100 per credit hour for his prior deficiency of two (2) hours of continuing medical education in the subject of end-of-life care, including pain management, for the licensure renewal period from July 1, 2004, to June 30, 2006, or a total of \$200.

HOELDTKE, ROBERT D., M.D. - Morgantown, WV (09/26/2007)

WV License No. 16050

<u>Board Conclusion</u>: Relating to the inability to practice medicine and surgery with reasonable skill and safety due to mental impairment.

<u>Board Action</u>: Dr. Hoeldtke's medical license was placed in an INACTIVE status effective September 26, 2007. His license shall remain in an inactive status until the Board receives written notification from his employer, West Virginia University, that the Practitioner Health Committee at University Hospitals, West Virginia University, and his treating therapist have all determined that Dr. Hoeldtke is able to return to work and begin to provide patient care at West Virginia University Hospitals, and he has appeared before the Licensure Committee of the Board for a full discussion of his health and well being and the Board reinstates his medical license under a Consent Order with conditions, limitations, and accommodations as it deems appropriate.

JOSEPH, BRIDGET, M.D. - Charleston, WV (07/10/2007)

WV License No. 16952

<u>Board Conclusion</u>: Violation of Board Rule concerning completion of continuing medical education requirement. <u>Board Action</u>: Dr. Joseph paid to the Board a CIVIL FINE in the amount of \$100 per credit hour for her prior deficiency of 18.25 hours of continuing medical education for the licensure renewal period from July 1, 2004, to June 30, 2006, or a total of \$1,825.

KUHLMAN, CHAD GREGORY, M.D. – Atlanta, GA (07/10/2007)

WV License No. 22261

<u>Board Conclusion</u>: Violation of Board Rule concerning completion of continuing medical education requirement. <u>Board Action</u>: Dr. Kuhlman paid to the Board a CIVIL FINE in the amount of \$100 per credit hour for his prior deficiency of two (2) hours of continuing medical education for the licensure renewal period from July 1, 2004, to June 30, 2006, or a total of \$200.

MERIWETHER, DAVID FARBOD, M.D. - Ronceverte, WV (08/06/2007)

WV License No. 14677

<u>Board Conclusion</u>: Unprofessional and unethical conduct and conduct having the effect of bringing the medical profession into disrepute, including a departure from or failure to conform to the current principles of medical ethics of the American Medical Association.

<u>Board Action</u>: PUBLICLY REPRIMANDED for unprofessional and unethical conduct related to inappropriate contact with a patient without her consent. Dr. Meriwether shall at all times during the next five (5) years have a third-party female in the examination room with him while he is conducting any type of physical examination of a female patient. Dr. Meriwether must attend a two (2) day course of continuing medical education on the subject of medical ethics, physician-patient relationships, and sexual boundaries within six (6) months.

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BOARD ACTIONS July 2007 — September 2007

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NAIR, AMBIKA KUMAR, M.D. - Morgantown, WV (09/25/2007)

WV License No. 22929

Board Conclusion: Relating to presenting a false statement in connection with an application for a license.

<u>Board Action</u>: PUBLICLY REPRIMANDED for providing two (2) inaccurate answers to the Board on her licensure application submitted to the Board in July, 2007.

WEBB, CHARLES MARSHALL, M.D. - Jacksonville, NC (09/25/2007)

WV License No. 22540

Board Conclusion: Relating to having a license acted against in another state.

<u>Board Action</u>: By <u>AMENDED CONSENT ORDER</u> dated September 25, 2007, Dr. Webb's <u>CONSENT ORDER</u> dated October 4, 2006, shall continue in effect until Dr. Webb is no longer subject to the requirements of the South Carolina State Board of Medical Examiners as contained in its August 22, 2003, Final Order.

LICENSURE DENIAL

HIRSCH, HARRY ANTHONY, M.D. - Maybeury, WV (07/09/2007)

WV License No. 16501

<u>Board Conclusion</u>: Unqualified to practice medicine and surgery in West Virginia due to violating an Order of the Board; failure to perform a legal obligation; unprofessional conduct; suspension of his medical license in Virginia and New York; and failure to demonstrate professional competence to practice medicine and surgery with a reasonable degree of skill and safety for patients.

Board Action: Licensure denial CONFIRMED effective May 29, 2007.

REVOCATION OF MEDICAL CORPORATION CERTIFICATES

July 10, 2007

Charleston Cardiovascular Consultants, Inc.
Charleston Digestive Disease, Inc.
Ohio Valley Physicians, Inc.
Pulmonary Associates of South Charleston, Inc.

September 10, 2007

Cataract & Refractive Surgery Institute, Inc. Family Medical Practice, Inc.

TAMPER-RESISTANT PRESCRIPTION PAD UPDATE



On September 29, 2007, President George W. Bush signed into law a delay in the implementation date for all Medicaid prescriptions to be written on tamper-resistant prescription pads. The law was to have gone into effect October 1, 2007, but now will go into effect April 1, 2008.

The West Virginia Bureau for Medical Services is responsible for implementation of the law. The Bureau's website is www.wvdhhr.org/bms. It states that as of the effective date, a prescription pad must contain at least one of the characteristics listed below, and it applies to all non-electronic prescriptions, legend and over the counter, written for West Virginia Medicaid members, when Medicaid is the primary or secondary payer.

	Required tamper-resistant characteristics One or more industry-recognized features designed to:	Examples include but are not limited to:
1	Prevent unauthorized copying of a completed or blank prescription form	 High security watermark on reverse side of blank Thermochromic ink
2	Prevent erasure or modification of information written on the prescription by the prescriber	Tamper-resistant background ink shows erasures or attempts to change written information
3	Prevent the use of counterfeit prescription forms	Sequentially numbered blanksDuplicate or triplicate blanks

If West Virginia Medicaid does not enforce this requirement, Federal financial participation relating to covered drugs will be lost.

Drug Enforcement Administration and West Virginia Board of Pharmacy laws and regulations pertaining to written and electronic prescriptions for drugs still apply.

The website states that West Virginia Medicaid will not endorse specific vendors that supply tamperresistant pads nor will it purchase compliant prescription pads for Medicaid prescriptions nor provide them to prescribers. Page 10 Volume 11, Issue 3

TAMPER-RESISTANT PRESCRIPTION PAD UPDATE

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The Bureau's website lists exceptions from the tamper-resistant requirement as Medicaid prescriptions that are:

- Paid by managed care organizations (MCOs)
- Provided in specified institutional and clinical settings* <u>for which the drug is not separately re-imbursed</u>, but is reimbursed as part of a total service
 - * Institutional and clinical settings: nursing facilities, intermediate care facilities for the mentally retarded (ICF/MR): inpatient and outpatient hospital, hospice, dental, laboratory, x-ray and renal dialysis services
- E-prescribed, faxed to the pharmacy from the provider's office, or telephoned to the pharmacy by the provider
- Refills for which the original prescription was filled before the effective date

Emergency fills for prescriptions written on non-tamper resistant pads are permitted as long as the prescriber provides a verbal, faxed, electronic, or compliant written prescription within 72 hours after the date on which the prescription was filled. In an emergency situation, this allows a pharmacy to telephone a prescriber to obtain a verbal order for a prescription written on a non-compliant prescription pad. The pharmacy must document the call on the face of the written prescription. In this situation, prescriptions may be filled with the entire prescribed quantities within the coverage limits.

The Board recommends that if you have further questions, you contact the Bureau for Medical Services at 304.558.1700 or visit its website at: www.wvdhhr.org/bms.

DO YOU WANT TO TREAT AN ADDICT FOR ADDICTION?

Because of a recent increase in questions about this, the DEA has asked the Board to inform practitioners of its website, www.deadiversion.usdoj.gov.

Once there, click on "PUBLICATIONS," then "Manuals," then "Practitioner's Manual," and then "Section VI, Opioid (Narcotic) Addiction Treatment Programs." This section provides a brief explanation of what a practitioner needs to do to administer and dispense scheduled controlled substances for addiction treatment.

CHANGE OF ADDRESS FORM

NAME:		LICENSE#:
(Last) (First) By law, you must keep this office apprised of any and all	(Middle) l address changes.	(Suffix)
PREFERRED MAILING ADDRESS (Required):		HOME ADDRESS:
(This address is public information, except phone & email)		☐ Check here if same as preferred mailing address
	Address 1	
	Address 2	
	City, State, Zip, Co	unty
	Phone	
	Email	
MAIN WORK ADDRESS: ☐ Check here if same as preferred mailing address		ter average weekly on call hours for ALL loca-
Officer field it same as preferred maining address	tio	ns:
Address 1		
Address 2		st AVERAGE HOURS worked per week (not on II) at this location:
	Di	rect Patient Care:
City, State, Zip, County		Iministration: ormal Teaching:
Phone Fax	Re	esearch:
Email	Ot	her Medical/Podiatric Activities:
SECOND WORK ADDRESS:		
		st AVERAGE HOURS worked per week (not on II) at this location:
Address 1	Di	rect Patient Care:
Address 2		dministration: ormal Teaching:
City, State, Zip, County	Re	esearch:
Oity, State, Zip, Sounty	Ot	her Medical/Podiatric Activities:
Phone		
THIRD WORK ADDRESS:		
Address 1	Lis	et AVERAGE HOURS worked per week (not on
Address 1		II) at this location:
Address 2		rect Patient Care: Iministration:
City, State, Zip, County	Fo	ormal Teaching:
		esearch: her Medical/Podiatric Activities:
Phone		-
Enter your self-designated primary and	secondary SPECIAL	ΓY here: (M.D.'s and D.P.M.'s ONLY)
		Specialty:
<u> </u>		
LICENSEE'S ORIGINAL SIGNATURE:		DATE:

CHANGE OF ADDRESS INFORMATION



NOTE: There is a Change of Address Form located on Page 11 of this Newsletter. You may also visit the Board's website at www.wvdhhr.org/wvbom for a Change of Address Form. By law, a licensee of the Board of Medicine must keep this office apprised of any and all address changes. The preferred mailing address of a licensee is the licensee's address of record, which is public information, with the exception of the telephone number and e-mail address.

WEST VIRGINIA BOARD OF MEDICINE 2007 MEETINGS

November 5

ALL BOARD MEETINGS BEGIN AT 9:00 A.M.

WV Board of Medicine



101 Dee Drive, Suite 103 Charleston, WV 25311

Phone: 304.558.2921 Fax: 304.558.2084

www.wvdhhr.org/wvbom

Watch for updates and changes.

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