Volume 13, Issue 4

October 2009 -December 2009



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West Virginia Board of Medicine Quarterly Newsletter

BOARD MEMBER PROFILE

Gregory Mark Moreland, M.D.

In the fall, Governor Joe Manchin III appointed G. Mark Moreland, M.D., to the West Virginia Board of Medicine. Dr. Moreland has practiced family medicine in Nitro, West Virginia, since 1987.

After obtaining his B.S. in Biology at West Virginia State College in Institute in 1977, Dr. Moreland was for a year the Director of Environmental Health in Monroe County, Florida. He then returned to West Virginia and received an M.A. in Biology at Marshall University in Huntington, then went on to receive his M.D. in 1984 from Marshall University. His three (3) year Residency was completed in 1987 at the West Virginia University School of Medicine, Charleston Division.

In addition to his busy practice in Nitro, Dr. Moreland has taken on the duties of Associate Clinical Professor since 1987 at both the Marshall University School of Medicine and the West Virginia University School of Medicine in Morgantown. From 1996 to 2000, Dr. Moreland also was the Medical Director of Prime One Health Insurance in Charleston, a position requiring formation and implementation of medical policy and criteria, physician credentialing, review of medical criteria for treatment and testing, out of network referral, patient appeal processes, as well as pharmacy and therapeutics.

Since 1987, Dr. Moreland has been licensed by the West Virginia Board of Medicine, certified by and a Diplomate of the American Board of Family Medicine, and a member of the American Academy of Family Physicians. He is a member also of the American Medical Association and the West Virginia Academy of Family Medicine.

Dr. Moreland resides in St. Albans with his wife, Lynn, and their four (4) sons. Lynn Moreland is a Family Nurse Practitioner who works with her husband. When Dr. Moreland has any free time, he enjoys hunting and fishing.

CHECK OUT THE BOARD'S WEBSITE FOR THE FOLLOWING BOARD ADOPTED POLICY STATEMENTS

Conflict of Interest Sexual Misconduct Corporate Practice of Medicine Policy for the Use of Controlled Substances for the Treatment of Pain Addressing the Board Pain Management at End of Life Opioid Addiction Treatment in the Medical Office Board Opinion Re: Loans Surgery Using Lasers, Pulsed Light, Radiofrequency Devices, or Other Techniques Disqualification of Supervising Physician for a Physician Assistant Admission of Service Animals to Physicians' and Podiatrists' Offices and Other Health Care Settings Use of Letters of Protection with Established Patients



www.wvbom.wv.gov

CME COURSES AVAILABLE ON PHARMACEUTICAL MARKETING PRACTICES

REMINDER

More than 40 courses are available on a Federation of State Medical Board Foundationhosted web portal (<u>www.fsmb.org/re/open/aboutus.html</u>) providing physicians with access to courses about pharmaceutical industry marketing techniques. Most of the courses are available free of charge and many may be taken for CME credit. The portal includes an educational resource center (<u>www.fsmb.org/re/open/resources.html</u>) of relevant statutes, reporting mechanisms for adverse events related to medications, and databases of information about the safety and efficacy of prescription medications. Funded by a grant from the Attorney General Consumer and Prescriber Education Grant program, the portal is part of a national program designed to educate health care professionals about the impact of pharmaceutical industry marketing techniques on prescribing practices.

NEW APPOINTMENTS TO THE BOARD

Effective October 13, 2009, Governor Manchin appointed **Rusty L. Cain, D.P.M.**, to serve as a member of the Board. Dr. Cain is a podiatrist who practices in Fairmont, West Virginia, and will serve with a term expiring September 30, 2012.

Effective November 10, 2009, Governor Manchin appointed **Cheryl Henderson** to serve as a lay member of the Board. She will serve with a term expiring September 30, 2012.

We welcome Dr. Cain and Ms. Henderson to the Board of Medicine.

CHARLOTTE JEWELL RETIRES Reprinted from the October 2009 Edition of the West Virginia Association of Physician Assistants' Bulletin By Dean Wright, P.A.-C.

Ms. Charlotte A. Jewell, Physician Assistant Coordinator at the West Virginia Board of Medicine is to retire October 31, 2009.

Charlotte began her work in State Government as a Clerk with the Department of Motor Vehicles in 1970 and then worked in the Office of Workers' Compensation beginning in 1979.

From 1982 until her employment in February 1999 with the West Virginia Board of Medicine, she was an employee of the Kanawha/Charleston Health Department. There she interviewed and registered patients for various clinics and services and handled a high volume of telephone calls.

When Charlotte came to the Board in February 1999, she was the Board's receptionist and Physician Assistant Coordinator, along with carrying out a variety of other office duties. In this capacity, Charlotte was the voice and face of the Board for many years.

In April 2006, Charlotte was promoted to a higher classification within the State Government and no longer served as receptionist, instead devoting all of her time to processing physician assistant applications and serving as the back-up to the Board's Licensure Analyst.

Over the years, Charlotte has received many letters and comments of appreciation from members of the Board, Legislators, and physician assistants for her excellent work and helpfulness. Her service and dedication to the members of the Physician Assistant Committee was unmatched and was always performed in a kind and courteous manner. She will truly be missed by all.

Charlotte has a close-knit family and enjoys spending time with her granddaughter, grandson, and her great-grandchildren.

If you would like to send Charlotte a note of thanks, her mailing address is Box 503, Mammoth, WV 25132.



BOARD ACTIONS October 2009 — December 2009



BLACKSBERG, ILENE RAE, M.D. – Fairmont, WV (10/09/2009)

WV License No. 16236

<u>Board Conclusion</u>: Relating to the inability to practice medicine with reasonable skill and safety due to mental impairment or abnormality and relating to unprofessional, unethical conduct.

<u>Board Action</u>: License placed in a PROBATIONARY status for five (5) years beginning October 9, 2009, subject to compliance by Dr. Blacksberg with terms and conditions.

CHANDRASEKHAR, SUBRAMANIYAM, M.D. – New Martinsville, WV (11/17/2009)

WV License No. 20461

<u>Board Conclusion</u>: The inability to practice medicine and surgery with reasonable skill and safety due to abuse of alcohol.

<u>Board Action</u>: By "Second Amended Consent Order" the following requirement was removed from the Order in its entirety: "Dr. Chandrasekhar's practice of medicine and surgery shall be limited to fifty (50) hours each week, which fifty (50) hours includes 'on call' time."

GOODWIN, FREDERICK MARK, M.D. – Lakeland, FL (10/13/2009)

WV License No. 14757

<u>Board Conclusion</u>: Relating to having his license in another jurisdiction acted against and subjected to disciplinary action.

<u>Board Action</u>: PUBLICLY REPRIMANDED for having his license in another jurisdiction acted against and subjected to disciplinary action.

HERRING, CRAIG SCOTT, M.D. – Natrona Heights, PA (10/13/2009)

WV License No. 21472

Board Conclusion: Presenting false statements in connection with an application for a license.

<u>Board Action</u>: Granted ACTIVE status for his currently inactive license and shall pay \$300 for providing false information to the Board on applications submitted to the Board, \$200 of which is designated a fine for his deficiency of two (2) hours of continuing medical education in end-of-life care including pain management, and \$100 of which is designated administrative costs.

HESS, DAVID ELWOOD, M.D. – Bridgeport, WV (10/26/2009)

WV License No. 17552

<u>Board Conclusion</u>: Relating to gross negligence in the use and control of prescription forms, presigning blank prescription forms, and unprofessional conduct.

<u>Board Action</u>: License placed on PROBATION for a period of five (5) years beginning October 26, 2009; PUBLICLY REPRIMANDED for his gross negligence in the use and control of prescription forms, presigning blank prescription forms and for his unprofessional conduct; FINED \$1,000.

HOOVER, KATHERINE ANN, M.D. – Lost Creek, WV (12/16/2009)

WV License No. 11571

<u>Board Conclusion</u>: Exercised influence within a patient-physician relationship for the purpose of engaging a patient in sexual activity; unprofessional, unethical, dishonorable conduct; and in the absence of restrictions and conditions, unqualified to practice medicine and surgery in the State of West Virginia.

<u>Board Action</u>: License REVOKED effective at 12:01 a.m. on Monday, October 6, 2008, which revocation is STAYED IMMEDIATELY, and her license is placed on PROBATION for five (5) years. Dr. Hoover shall pay all costs of the investigation and prosecution of this matter and shall pay a civil fine of \$1,000.

<u>Court Action</u>: Board Order AFFIRMED by Circuit Court of Mingo County.



BOARD ACTIONS October 2009 — December 2009

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MAKKER, RAM SWAROOP, M.D. - Roslyn Heights, NY (10/09/2009)

WV License No. 20082

<u>Board Conclusion</u>: Relating to having his license in another jurisdiction acted against and subjected to disciplinary action.

<u>Board Action</u>: License SURRENDERED effective October 9, 2009. Dr. Makker will not apply to the Board for licensure in the future, and if he does, his application will be denied.

PHARES, ROBERT WILLIAM, M.D. – Hedgesville, WV (12/14/2009)

WV License No. 21259

<u>Board Conclusion</u>: Relating to dishonorable, unethical and/or unprofessional conduct; failing to perform any statutory or legal obligation, filing a report the licensee knows to be false, failing to practice medicine acceptably, and otherwise violating the law; prescribing a drug other than in good faith and in a therapeutic manner in accordance with accepted medical standards; and making a deceptive, untrue or fraudulent representation in the practice of medicine and surgery.

<u>Board Action</u>: PUBLICLY REPRIMANDED for his misdemeanor conviction and for his multiple poor judgments leading to the circumstances underlying the criminal charge and conviction; and shall undergo regular, individual psychological counseling by a Board-approved licensed mental health professional for a period of eighteen (18) months, who shall provide written quarterly reports to the Board.

PORTILLO, AUGUSTO L., M.D. - Hurricane, WV (12/23/2009)

WV License No. 9191

<u>Board Conclusion</u>: Relating to dishonorable, unethical and/or unprofessional conduct; failing to perform any statutory or legal obligation, filing a report the licensee knows to be false, failing to practice medicine acceptably, and otherwise violating the law; and making a deceptive, untrue or fraudulent representation in the practice of medicine and surgery.

<u>Board Action</u>: License placed into an INACTIVE status effective December 23, 2009, and shall within thirty (30) days of the date of the entry of the Consent Order, arrange for the transfer of and maintenance of all of his patient records to a records custodian.

SHIFFLER, JOEL DAVID, M.D. – Parkersburg, WV (12/28/2009)

WV License No. 20094

<u>Board Conclusion</u>: Has not made a good faith effort to comply with the terms of the Amended Consent Order he entered into with the Board in February 2008.

Board Action: License REVOKED effective July 15, 2009, at 12:01 a.m.

Court Action: REVOCATION of license AFFIRMED by Circuit Court of Kanawha County.

SILK, ADNAN, M.D. – Beckley, WV (11/19/2009)

WV License No. 10491

Board Conclusion: Relating to impairment.

<u>Board Action</u>: License placed under limitations, conditions, and restrictions for as long as Dr. Silk's treating physician reports that Dr. Silk is disabled from performing surgery.

STATUM, KASEY AVIS, M.D. - Laurel, MD (11/09/2009)

WV License No. 21877

Board Conclusion: Relating to mental impairment.

<u>Board Action</u>: License placed in an INACTIVE status effective November 9, 2009. Dr. Statum shall not practice medicine and surgery of any kind in the State of West Virginia, including the writing of any pre-scriptions, during the pendency of the inactive status of her license.

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LICENSING STATISTICS As of December 31, 2009

PHYSICIAN ASSISTANTS

Physician Assistant

Licenses Granted

Active Licensed

Physician Assistants

This Year

67

604

PODIATRISTS

Podiatric Licenses Granted This Year 5

Active Licensed

Podiatrists

101

Medical Licenses Granted

MEDICAL DOCTORS

This Year

449

Active Licensed Medical Doctors

5.776

Active Licensed Medical Doctors Practicing in West Virginia 3.730

> Inactive Licensed Medical Doctors

627

Active Licensed **Podiatrists** Practicing in West Virginia 64

> Inactive Licensed **Podiatrists**

15

West Virginia Board of Medicine **Board Members**

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

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

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

> **R.** Curtis Arnold, D.P.M. **South Charleston**

Rev. Richard Bowyer Fairmont

Rusty L. Cain, D.P.M. Fairmont

Michael L. Ferrebee, M.D. Morgantown

M. Khalid Hasan, M.D. **Beckley**

Beth Hays, M.A. Bluefield

Cheryl Henderson Huntington

Carlos C. Jimenez, M.D. **Glen Dale**

Vettivelu Maheswaran, M.D. **Charles Town**

G. Mark Moreland, M.D. Nitro

Badshah J. Wazir, M.D. **South Charleston**

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

WHAT IS A PHYSICIAN ASSISTANT?

P.A. stands for physician assistant. A P.A. is a graduate of a specific accredited training program and is considered qualified in the State of West Virginia to provide treatment for patients, always under the supervision and direction of a physician. The supervising physician is not required to be present at the location where treatment is provided by the P.A.

Physician assistants who sign their names "PA-C" are certified by the National Commission for the Certification of Physician Assistants, and complete a re-certification examination every six years. Physician assistants are licensed by the West Virginia Board of Medicine, which requires 100 hours of continuing medical education for P.A.'s every two years.

In accordance with a specific job description approved by the Board, physician assistants examine patients, take medical histories, order and interpret diagnostic tests, and in many cases are authorized to prescribe medication. If additional information is desired about any specific job description, the West Virginia Board of Medicine may be contacted at (304)558-2921.

> Adopted by the West Virginia Board of Medicine November 4, 2002



BOARD EMPLOYEE NEWS

With Charlotte Jewell moving on to retirement, the search for a new Physician Assistant Coordinator led no further than our own office where interest was expressed in the position. Through the interview process, **Wendy L. Greene** was selected to assume the Physician Assistant Coordinator

position. Wendy previously held the Certification and Verification Coordinator position at the Front Desk where she handled the receptionist duties as well.

In moving to replace Ms. Greene, the Board office posted the position externally and received very heavy interest. By way of applicant screening and the interview process, the Board has selected **Teresa** "**Terri**" **Westfall** as the new Certification and Verification Coordinator.

Both women formally assumed their duties on November 1, 2009, and have shown to be very capable in their respective positions.

NOTICE REGARDING UPCOMING RENEWAL Those medical doctors whose last names begin with the letters A through L will be renewing their medical licenses for the period July 1, 2010, to June 30, 2012. In mid-May, 2010, the Board will have available on its website an online application. Beginning in May, 2010, those who are unable to renew online must request a paper application from the Board. Further information will be provided in the first quarter Board Newsletter, which will be coming to you in April, 2010. *www.wvbom.wv.gov* Letters of protection (LOP), generally, are legal instruments creating a contractual agreement between a physician and a patient's attorney. LOPs are often used to guarantee payment to the physician by a patient's attorney when that attorney's client does not have insurance or resources to pay the physician's fees after an injury allegedly caused by a third party. The guarantee of payment is usually conditioned upon a successful outcome (either in settlement or by judgment) by the plaintiff attorney and his/her client in a tort action.

In and of itself, an LOP is not an ethically prohibited contractual arrangement. The use of LOPs, however, with established patients, particularly those with health insurance, may pose ethical risk for the practitioner. LOPs, on their face, generally guarantee payment of the full amount of the physician's fees, irrespective of any negotiated discount and/or reduced reimbursement rates with health insurers. Thus, the physician may be provided with an agreement by the patient's attorney that will provide the physician higher reimbursement than if he/she submitted the fees to the health insurer, albeit receipt of which is likely extended over a longer period of time.

On occasion physicians have required patients to provide an LOP from the patient's attorney before the physician would treat the patient. Requiring an LOP from an established patient who has health insurance previously accepted by the practitioner may place the physician's financial interests ahead of the patient's welfare.

Principle VIII of the American Medical Association Principles of Medical Ethics provides that "A physician shall, while caring for a patient, regard responsibility to the patient as paramount". American Medical Association Opinion 8.03 Conflicts of Interests: Guidelines provides:

Under no circumstances may physicians place their own financial interests above the welfare of their patients. The primary objective of the medical profession is to render service to humanity; reward or financial gain is a subordinate consideration. For a physician to unnecessarily hospitalize a patient, prescribe a drug, or conduct diagnostic tests for the physician's financial benefit is unethical. If a conflict develops between the physician's financial interest and the physician's responsibilities to the patient, the conflict must be resolved to the patient's benefit.

Refusing to treat an existing patient who has a policy of health insurance accepted by the physician because the patient or patient's attorney refuses to provide an LOP to the physician may well be found to be an unethical act by the Board, in violation of the West Virginia Medical Practice Act and may subject a physician to discipline by the Board. While physicians generally are free to choose who they serve and should expect to be paid for their services, there are limitations that will apply, particularly once a patient-physician relationship exists.

American Medical Association Opinion 8.11 provides:

Physicians are free to choose whom they will serve. The physician should, however, respond to the best of his or her ability in cases of emergency where first aid treatment is essential. Once having undertaken a case, the physician should not neglect the patient. (Emphasis added).

PUBLIC POLICY STATEMENT ON THE USE OF LETTERS OF PROTECTION WITH ESTABLISHED PATIENTS

continued from page 8

American Medical Association Opinion 8.115 Termination of the Physician-Patient Relationship provides:

Physicians have an obligation to support continuity of care for their patients. While physicians have the option of withdrawing from a case, they cannot do so without giving notice to the patient, the relatives, or responsible friends sufficiently long in advance of withdrawal to permit another medical attendant to be secured.

Thus, a physician may not neglect his/her patient once the relationship is established. If the physician wishes to withdraw, he/she must provide enough time for the patient to establish care with a new provider (generally thirty days).

For most practitioners however, there will be an additional ethical question in considering not treating or dismissing a patient for not signing an LOP. Physicians routinely enter into provider agreements with health insurance companies. These provider agreements typically require a physician to treat its members unless the physician has a closed panel (which is also subject to a number of requirements by the health insurers). Additionally, provider agreements generally allow physicians to submit reimbursement claim for patients who were injured by another party, giving the health insurer a right to subrogate against that third party. AMA Opinion 9.12 Patient-Physician Relationship: Respect for Law and Human Rights provides:

The creation of the patient-physician relationship is contractual in nature. Generally, both the physician and the patient are free to enter into or decline the relationship. A physician may decline to undertake the care of a patient whose medical condition is not within the physician's current competence. However, physicians who offer their services to the public may not decline to accept patients because of race, color, religion, national origin, sexual orientation, or any other basis that would constitute invidious discrimination. Furthermore, physicians who are obligated under pre-existing contractual arrangements may not decline to accept patients as provided by those arrangements. (Emphasis added).

Thus, refusing to treat or dismissing an existing patient who has health insurance and with whose health insurer the physician is a contracted provider may be found to be in violation of the Medical Practice Act and may subject the physician to discipline by the Board. While there may be exceptions to this, the Board urges the practitioner to reflect and use caution when utilizing a LOP. The Board may discipline a physician or a podiatrist for violating any provision of the Medical Practice Act or a rule or order of the board. W. Va. Code §30-3-14(c)(17). This includes dishonorable, unethical or unprofessional conduct, including:

Conduct which is calculated to bring or has the effect of bringing the medical or podiatric profession into disrepute, including, but not limited to, any departure from or failure to conform to the standards of acceptable and prevailing medical or podiatric practice within the state, **and**

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PUBLIC POLICY STATEMENT ON THE USE OF LETTERS OF PROTECTION WITH ESTABLISHED PATIENTS

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any departure from or failure to conform to the current principles of medical ethics of the AMA available from the AMA in Chicago, Illinois, or the principles of podiatric ethics of the APMA available from the APMA in Bethesda Maryland. For purposes of this subsection, actual injury need not be established.

11 CSR 1A §12.2(d). (Emphasis added).

The Board recommends that physicians and podiatrists reflect carefully before accepting a letter of protection, especially in the situation of an existing patient with heath insurance. The practitioner should consider:

- 1. Do I have an existing patient-physician relationship with this individual?
- 2. Does accepting the LOP put my financial interest before the welfare of the patient?
- 3. Am I obligated to treat this patient due to a preexisting contract (e.g. a health insurer provider agreement)?
- 4. If I decide not to treat or to dismiss this patient, have I provided adequate time and referrals to ensure the patient's continuity of care and general welfare?

However the practitioner answers these questions, the overarching principle to guide the practitioner should be the welfare of the patient. If the practitioner decides to utilize a LOP, he/she may wish to include a provision in the agreement that the practitioner will first attempt to bill the insurer in the customary manner, and only upon rejection by the insurer of the claim will the LOP go into effect.

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.	General Counsel
215	John A. Lohmann, J.D., M.B.A.	Disciplinary Counsel
211	Lori Blaney	Paralegal
212	M. Ellen Briggs	Administrative Assistant to the Executive Director
210	Wendy L. Greene	Physician Assistant Coordinator
222	Leslie A. Higginbotham, CMBI	Investigator
216	Michael R. Lilly	Information Systems Coordinator
213	Charlotte Ann Pulliam	Complaint Coordinator
220	Deborah D. Scott	Fiscal Officer
221	Sheree J. Thompson	Licensure Analyst
224	Teresa L. Westfall	Receptionist/Certification and Verification Coordinator

CHANGE OF ADDRESS FORM

NAME:		LICENSE#:
(Last) (First) By law, you must keep this office apprised of any and all	(Middle) address changes.	(Suffix) If not currently practicing, check here \Box
PREFERRED MAILING ADDRESS (Required):		HOME ADDRESS:
(This address is public information, except phone & email)		□ Check here if same as preferred mailing address
	A delana a a d	
	Address 1	
	Address 2	
	City, State, Zip, Co	unty
	Phone	
	Email	
	-	
		ter average weekly on call hours for ALL loca-
Check here if same as preferred mailing address	tio	ns:
Address 1		
	Lis	st AVERAGE HOURS worked per week (not or
Address 2	ca	II) at this location:
City Otata Zia Causty		rect Patient Care:
City, State, Zip, County		dministration:
Phone Fax	FC	ormal Teaching:
		esearch: her Medical/Podiatric Activities:
Email	0	
SECOND WORK ADDRESS.		AVERACE HOURS worked per work (not on
		St AVERAGE HOURS worked per week (not or II) at this location:
Address 1		rect Patient Care:
		Iministration:
Address 2		prmal Teaching:
		esearch:
City, State, Zip, County		her Medical/Podiatric Activities:
Phone		
THIRD WORK ADDRESS:		
Address 1		st AVERAGE HOURS worked per week (not or
		II) at this location: rect Patient Care:
Address 2		dministration:
City, State, Zip, County	Fo	ormal Teaching:
City, State, Zip, County	Re	esearch:
Phone	Ot	her Medical/Podiatric Activities:
Enter your self-designated primary and	secondary SPECIAL	ΓY here: (M.D.'s and D.P.M.'s ONLY)
	-	Specialty:
	Seesnaaly	

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.wvbom.wv.gov 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 2010 MEETINGS

January 11 March 8 May 10 July 12 September 13 November 8

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.wvbom.wv.gov Watch for updates and changes. PRESORTED STANDARD US POSTAGE PAID CHARLESTON, WV 25301 PERMIT NO. 271

Place Mailing Address Label Here