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# Collaboration in Investigating Prescription Drug Cases

WV Chapter, NADDI  
August 18, 2017



**West Virginia**  
Board of  
Medicine

Leslie A. Thornton, CMBI  
Supervisor of Investigation,  
Complaints and Compliance

# West Virginia Board of Medicine

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The WVBOM is the sole authority for the issuance of licenses to practice medicine and surgery, to practice podiatry, and to practice as a physician assistant for a medical doctor (M.D.) in the state of West Virginia, and is the regulatory and disciplinary body for medical doctors, podiatrists and their physician assistants.



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# Goal

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Protection of the public interest in the practice of medicine, surgery and podiatry.



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# Board Composition

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- Members: 15\*
- Committees: 6
- Staff: 16 – Administration; Licensing, Certification and Renewals Section; and Investigation and Complaints Section (ICS).
- ICS: 2 Investigators, Paralegal, Complaints Coordinator and 2 Attorneys



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# Statutory Authority

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- WV Code Chapter 29A State Administrative Procedures Act (administrative code, not criminal)
- WV Code Chapter 30-1 General Provisions for State Boards of Professions and Occupations
- WV Code Chapter 30-3 Medical Practice Act
- WV Code Chapter 30-3A Physician Assistant Practice Act



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# Statutory Authority

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- 11 CSR 1A - Licensing and Disciplinary Procedures: Physicians, Podiatric Physicians and Surgeons
  - 11.1 – 11.6 Confidentiality of Complaint and Investigation Process



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# Functions

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- The licensing of medical doctors (M.D.), podiatric physicians (D.P.M.) and physician assistants (P.A.-C.)
- Issuance of drug dispensing certificates
- Certification of medical corporations and professional limited liability companies (PLLCs)



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# Functions (cont.)

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- Primary source verification of licenses
- Verify continuing medical education (CME)
- Public source for malpractice settlements and judgments
- Disciplinary actions involving M.D.s, D.P.M.s and P.A.s



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# Functions (cont.)

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- Unauthorized practice of medicine (includes prescribing): referral to **prosecuting attorney's office**
- Less than 90 days: misdemeanor, up to \$5,000 fine or 12 months in jail, or both
- More than 90 days: felony, up to \$10,000 fine or 1-5 years in jail, or both



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# Areas of Discipline

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- Standard of care
- Professional incompetence
- Exercising influence within a patient-physician relationship for the purpose of engaging a patient in sexual activity
- Prescribing, dispensing, administering or otherwise preparing a prescription drug, including any controlled substance, other than in good faith and in a therapeutic manner in the course of professional practice



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# Areas of Discipline (cont.)

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- Failure to keep written records to justify the course of treatment of the patient
- Gross negligence in the use and control of prescription forms
- Unprofessional conduct



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# 2016

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- Active licenses in West Virginia:
  - M.D. – 6,190 / 4,035
  - D.P.M. – 107 / 76
  - P.A.-C. – 824 / 753
- 172 complaints filed with the Board of Medicine (M.D. - 158; D.P.M. - 5; P.A.-C - 9)
- 4 were drug / impairment related



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# Complaint Process

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- Written complaint, completed on WVBOM complaint form, or a written report from a 3<sup>rd</sup> party, reviewed by Complaint Committee
- Complaints reviewed by Executive Director, Attorney and Supervisor of Investigation and Complaints to determine jurisdiction
- Letter of acknowledgement to complainant explaining necessity for confidentiality
- Letter to licensee requesting response to complaint



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# Complaint Process (cont.)

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- Response of licensee received
- Licensee response forwarded to complainant for reply
- Case file placed on agenda of Complaint Committee for review
- After review, the committee may proceed in one of the following ways:



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# Complaint Process (cont.)

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- No probable cause:
  - Case is closed
  - Closure decision and letter sent to complainant and licensee
- Probable cause:
  - Consent order signed by licensee; or
  - Formal hearing



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# Formal Hearing

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- Licensee served with a Complaint and Notice of Hearing
- Hearing held before a Hearing Examiner
- **Hearing Examiner's recommendation and transcript with exhibits reviewed by the Board, which determines (minus Complaint Committee):**



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# Formal Hearing Outcomes

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- Dismissal of charges
- Imposition of conditions of practice
- Reprimand
- Fine
- Community service
- Order of Suspension, Revocation or Probation issued

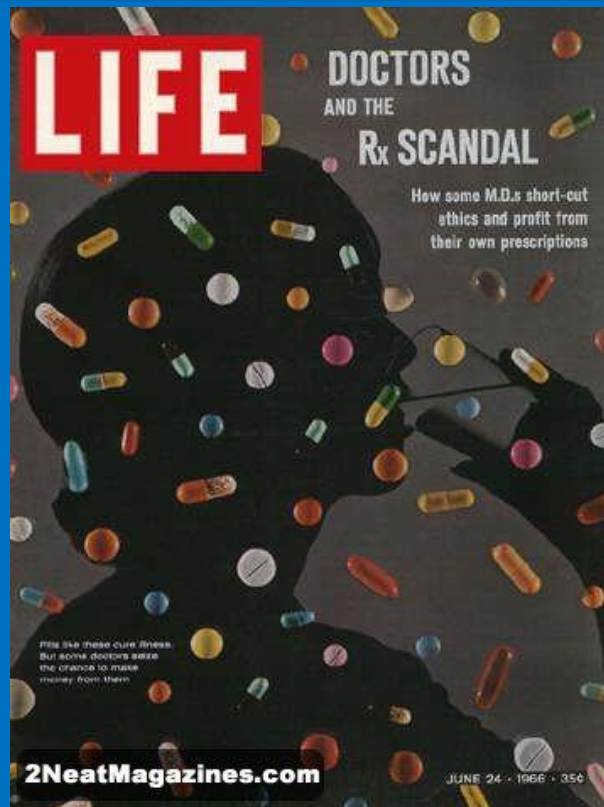


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# Prescription Drug Diversion

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# Prescription Drug Diversion

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- Any criminal act involving a prescription drug
- The acquisition of prescription drugs for other than their medically intended use (recreation, profit, addiction)
- An issue of medical practice for more than a century



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# Prescription Drug Diversion

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- Commonly abused Rx drugs:
  - Amphetamines – Dexedrine, Adderall, Ritalin
  - Barbiturates – Seconal, Phenobarbital
  - Tranquilizers – Valium, Xanax, Ativan, Ambien, Lunesta
  - Opiates – Oxycontin, Vicodin, Percodan, Percocet, Norco



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# How Physicians Fall Prey The 5 Ds

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- Dishonesty – Knowingly prescribes for profit, sex or self
- Disability – Impaired by their own alcohol or chemical abuse or dependence, or by mental or physical illness
- Duped – Goes along with increased amounts or changes
- Dated – Not keeping pace with developments in pharmacology
- Distracted – Overscheduled, inattentive to patient and/or support staff, careless Rx writing, poor medical record practices



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# Assessing a Physician's Practice

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- Thorough examinations and evaluations
- Sound treatment plans
- Informed consent and agreements (drug contracts)
- Periodic review of treatment and progress
- Use of consultation when necessary
- Accurate medical records



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# Assessing a Physician's Practice (cont.)

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- Use of drug screens (UDS)
- Use of pill counts
- Security of Rx pads or electronic Rx
- Use of Controlled Substances Monitoring Program
- Patient discharge for violating drug contracts



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# Strategies to Consider

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- Interagency collaboration
- Distinguishing between criminal behavior and medical negligence
- Access to medical experts
- Balancing publicity
- Controlled Substances Monitoring Program
- Education



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# Contact Information

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