California

New Brochure in California Provides Information for Consumers on Sexual Boundaries in Therapy

The Medical Board of California and the Osteopathic Medical Board of California are helping promote a new resource for consumers that helps them understand potential sexual boundary issues between patients and therapists.

"Therapy Never Includes Sexual Behavior" is a new brochure that provides information regarding client rights, warning signs that the therapeutic relationship may be heading in the wrong direction, common reactions to sexual misconduct by a therapist, what consumers can do, how to file a complaint and get help and answers to frequently asked questions.

The brochure emphasizes that sexual behavior between a therapist and a patient is illegal and unethical, and that it can be punished by discipline that includes revocation or suspension of a license, fines or imprisonment. It is the therapist's responsibility to keep sexual behavior out of therapy.

California Business and Professions Code Section 728 requires that such a brochure be given to a client by a therapist or the employer of the therapist who learns from a patient that he or she "…had alleged sexual behavior or sexual contact with a previous psychotherapist during the course of a prior treatment…" The therapist or employer is required to discuss the brochure with the patient. Failure to comply constitutes unprofessional conduct.

Copies of the brochure are being made available free of charge by the Medical Board of California and the Osteopathic Medical Board of California, along with the California Board of Psychology and the California Board of Behavioral Sciences.

The brochure can be downloaded from the "Publications" section of California's Department of Consumer Affairs' website at www.dca.ca.gov.

Source: Medical Board of California *News,* Summer 2019

Nevada

Nevada Governor Signs Bill Creating Patient Protection Commission

Nevada Senate Bill 544 has been signed into law by Governor Steve Sisolak, creating a Patient Protection Commission in the state that will focus on a variety of health care issues — including health care costs and access to care.

The Commission will have 11 members appointed by the governor, based on recommendations from legislative leadership. Members of the Commission will be drawn from across the health care sector, including health plans, providers, hospitals and the pharmaceutical industry. Also included will be a representative of the academic community and patient advocates, representing health care consumers.

"The Patient Protection Commission will take a comprehensive look at the state of health care in Nevada and identify areas we need to improve,

'THE PATIENT PROTECTION COMMISSION WILL TAKE A COMPREHENSIVE LOOK AT THE STATE OF HEALTH CARE IN NEVADA AND IDENTIFY AREAS WE NEED TO IMPROVE...'

things we're doing well, and more ways we can ensure that access to health care is available to all Nevadans, no matter their ZIP code," Sisolak said.

The Commission will examine health care costs and the primary factors that are driving those costs, and the disparity of care among different communities — including the adequacy of health care providers and availability of health insurance plans.

According to the Governor's Office, the Commission is designed to be "far-reaching but flexible and will be tasked with evaluating itself and its role in Nevada's health care policy, which may include a more comprehensive or regulatory function in the future."

Source: News release, Office of Nevada Governor Steve Sisolak, June 7, 2019

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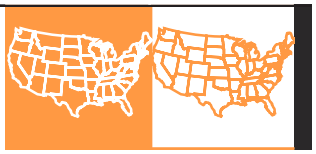

Ohio

Medical Board Adopts New Confidential Program for Substance Use Disorder

The State Medical Board of Ohio is making it possible for licensees seeking treatment for a substance use disorder to do so confidentially through its new One-bite Program — which allows licensees to receive treatment without disclosing their name or records to the Medical Board unless certain conditions exist.

The program is conducted by the Ohio Physicians Health Program (OPHP). To qualify for the program, licensees must meet three requirements:

- Be diagnosed with substance use disorder and impaired in ability to practice
- Be a first-time participant in the program
- Have no prior disciplinary action for substance use disorder or impairment by any licensing board in Ohio

For more information about the One-bite Program, contact the Ohio Physicians Health Program at 614-841-9690 or info@ophp.org.

Source: *State Medical Board of Ohio Newsletter,* August 2019

Ohio Releases Annual Report of Medical Licensure and Disciplinary Activities

The State Medical Board of Ohio has released information highlighting its medical licensure and disciplinary activities over the last fiscal year, including updated data on the number of licensees in various health professions in the state.

In total, the Board licensed 88,039 professionals in a variety of health-related occupations in the last fiscal year, including 42,007 allopathic physicians, 6,826 osteopathic physicians and 7,858 physicians in training. The second most-numerous group of licensed practitioners in Ohio — after physicians — is massage therapists, with 11,638 actively licensed. Respiratory care professionals are the third most-numerous group of practitioners, at 8,391. Other major licensee-categories include dietitians, with 4,353 practitioners, and physician assistants, with 4,149.

The Board issued new licenses to 3,123 physicians last year (including podiatric physicians). The second and third highest totals of new licenses granted last year were for massage therapists (503) and respiratory care professionals (424), followed by physician assistants (418). The Board issued 22,300 license renewals for practicing physicians, followed by 5,599 for massage therapists and cosmetic therapists. Because licenses expire in even-numbered years in Ohio for respiratory care professionals, dietitians, radiologist assistants, acupuncturists and others, these categories had far fewer license renewals for the most recent fiscal year.

The Board imposed 135 disciplinary sanctions last year. Of the Board actions taken, 39 were license revocations, 47 for various levels of license suspension, and 13 for license surrenders or retirements. The Board issued 3 reprimands and 26 probations. The top reasons for Board actions last year were impairment, representing 27% of cases, followed by prescribing issues (25%), criminal acts/convictions (17%), and actions by other boards or agencies (12%).

The Board completed 1,146 investigations and issued 206 subpoenas over the last year.

Source: *State Medical Board of Ohio 2019 Annual Report*

Oklahoma

Starting in 2020, Electronic Scripts Will be Required in Oklahoma for Scheduled Drugs

Effective January 1, 2020, all prescriptions issued in Oklahoma (with certain exceptions) for Schedule II, III, IV and V medications will be required to be filed electronically — making it one of the latest in a trend among states toward the adoption of electronic prescribing laws.

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The new requirement is mandated by Oklahoma House Bill 2931.

One major exception to Oklahoma's new electronic requirement is when a practitioner "experiences temporary technological or electrical failure or other extenuating circumstance that prevents the prescription from being filled electronically." In these cases, the failure will be noted in the patient's medical record.

The electronic prescription mandate also does not apply to veterinarians; practitioners who dispense directly to a patient; practitioners who order controlled dangerous substances to be administered through an on-site pharmacy in a hospital, nursing facility, hospice inpatient facility, outpatient dialysis facility or continuum of care facility; a penal institution; a pharmacy located on federal property; or a practitioner who has received a waiver or extension from a licensing board.

Electronic prescriptions may not be used for compound prescriptions or compounded infusion prescriptions containing two or more commercially available products or two or more active pharmaceutical ingredients; prescriptions issued under approved research protocols; or if a practitioner

PRESCRIPTIONS FOR ALL OF THE EXCEPTIONS UNDER THE NEW LAW MUST BE ISSUED ON AN OFFICIAL PRESCRIPTION FORM PROVIDED BY THE OKLAHOMA BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL.

determines a patient may be at risk if an electronic prescription cannot be issued in a timely manner.

Prescriptions for all of the exceptions under the new law must be issued on an official prescription form provided to practitioners by the Oklahoma Bureau of Narcotics and Dangerous Drugs Control (OBNDD). Practitioners must register with OBNDD, which will then provide personalized prescription forms. Registration is free.

Source: Oklahoma Board of Medical Licensure and Supervision *Issues and Answers*, August 21, 2019

Oregon

Bills Submitted by Oregon Board During 2019 Legislative Session are Signed into Law

The Oregon Medical Board recently submitted two bills to the Oregon legislature — Senate Bills 60 and 61 — that have been approved and signed into law.

Senate Bill 60 impacts volunteer health care professionals' claiming of liability limitations, streamlining the registration requirements for volunteer health care providers who are eligible for Oregon's statutory limited liability program. The new law changes the registration requirement from annual to biennial, aligning the program with health care practitioners' license renewal schedule.

SENATE BILL 61 INCREASES THE OREGON MEDICAL BOARD'S MEMBERSHIP BY AN ADDITIONAL PUBLIC MEMBER. THIS CHANGE RAISES THE NUMBER OF PUBLIC MEMBERS ON THE BOARD TO THREE.

The bill also adds acupuncturists and podiatric physicians among the licensees who may register for the program.

According to the Board, its goal in advocating for the legislation was to "encourage participation in the program and increase access to free health care services" by extending eligibility for the limited liability program to all of its licensees.

Senate Bill 61 increases the Oregon Medical Board's membership by an additional public member. This change raises the number of public members on the Board to three, bringing the percentage of public members serving on the Board to 21%.

The new public member position will begin in March 2020.

Source: *Oregon Medical Board Report*, Summer 2019

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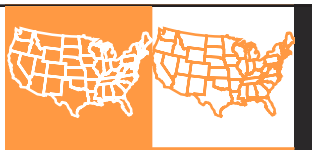

Texas

Key Requirements for Opioid Prescribing and Texas Prescription Monitoring Program Updated

The Texas Legislature has made a number of changes related to opioid prescribing in Texas and has created new continuing education requirements for prescribers and dispensers.

Among the changes:

Key Timelines. By March 1, 2020, prescribers will be required to check a patient's PMP history before prescribing opioids, benzodiazepines, barbituates, and carisprodol. Exceptions are provided for cancer patients and those in hospice care. Starting in January 1, 2021, electronic prescribing for opioids will be required; waivers will be authorized based on specific criteria.

Continuing Education Requirements. As of September 1, 2019, all prescribers and dispensers of opioids in Texas must now annually complete at least one hour of Continuing Medical Education (CME) in best practices, alternate treatment options, and multi-modal approaches to pain management. This requirement will expire August 31, 2023. Starting September 1, 2020, all health care professionals whose practice includes direct patient care will be required to complete a course on identifying and assisting human trafficking victims as criteria for license renewal.

Starting January 1, 2021, physicians practicing direct patient care must complete two CME hours in safe/effective pain management and opioid prescribing by the next registration period. After this, they will then be required to complete two hours of CME every eight years. This requirement will expire January 1, 2026.

Physician assistants who have a prescriptive authority agreement with a physician are now required to complete two CME hours, annually, in safe/effective pain management and opioid prescribing.

Source: *Texas Medical Board Newsletter*, August 2019

Charges Filed Against Texas Opioid Trafficking Network Responsible for Diverting More than 23 Million Pills

The U.S Attorney's Office in the Southern District of Texas has announced that a total of 41 individuals have been charged in nine indictments in Texas for their alleged involvement in a network of "pill mill" clinics and pharmacies that allegedly resulted in the diversion of approximately 23 million oxycodone, hydrocodone and carisoprodol pills.

Those charged include medical providers, clinic owners and managers, pharmacists, pharmacy owners and managers as well as drug dealers and traffickers.

In addition, federal law enforcement agents executed 36 search warrants including 15 pharmacies and six "pill mill" clinics, as well as other offices and residences, aimed at disrupting networks of opioid diversion.

The Drug Enforcement Administration (DEA) also served immediate suspension orders on seven pharmacies and two providers involved in dispensing controlled substances without legitimate medical purpose.

The indictments allege that participating physicians, medical professionals and pharmacies knew the prescriptions had no legitimate medical purpose and were outside the usual course of professional practice. In some cases, "crew leaders" and "runners" allegedly filled or had the individuals who posed as patients fill the illegal prescriptions at Houston-area pharmacies.

The owner and pharmacist in charge at one pill mill pharmacy allegedly dispensed the second highest amount of oxycodone 30-milligram pills of all pharmacies in the entire state of Texas in 2019, and the ninth highest amount in the nation.

On certain occasions, the indictments charge that drug dealers and traffickers allegedly diverted and distributed the controlled substances to the streets, with some pills trafficked from Houston to Boston.

Source: U.S. Attorney's Office Southern District of Texas news release, August 28, 2019

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