ALABAMA

CONTROLLED SUBSTANCE PRESCRIPTION GUIDELINES FOR PHYSICIANS

Board of Medical Examiners Rule 540-X-4-.05, Controlled Substance Prescription Guidelines for Physicians, has been amended, with an effective date of October 24, 2002. All physicians who prescribe controlled substances should be familiar with and strictly adhere to these Rules. The Board may assess an administrative fine of up to $10,000.00 for each separate violation or failure to comply with the prescription guidelines provided in this Rule. The entire Rule is contained in the special pullout section of this newsletter for easy reference.

540-X-4-.05 Controlled Substances Prescription Guidelines for Physicians.

1. All prescriptions for controlled substances shall meet the following requirements:
   a. The prescription shall be dated as of, and signed on, the day when issued;
   b. The prescription shall bear the full name and address of the patient to whom the drug is prescribed;
   c. The prescription shall bear the drug name, strength, dosage form, and quantity prescribed;
   d. The prescription shall bear directions for use of the drug;
   e. The prescription shall bear the name, address and Alabama Controlled Substances Certificate number of the physician prescribing the drug;
2. Where an oral order is not permitted, prescriptions for controlled substances shall be written with ink or indelible pencil or type writer and shall be manually signed by the physician issuing the prescription. For purposes of this rule, "manually signed" requires a non-electronic, handwritten signature. Oral orders are not permitted for prescriptions for Schedule II and Schedule IIN controlled substances.
3. A prescription issued by a physician may be communicated to a pharmacist by an employee or agent of the physician.
4. A prescription may be prepared by an employee or agent of the physician for the signature of the prescribing physician; however, the prescribing physician is ultimately responsible for ensuring that the prescription meets the requirements of this regulation.
5. When a physician prescribes a controlled substance, he or she shall not delegate the responsibility of determining the type, dosage form, frequency of application and number of refills of the drug prescribed.
6. Every written prescription for a controlled substance issued by a physician shall contain two signature lines. Under one signature line shall be printed clearly the words "dispense as written." Under the other signature line shall be printed clearly the words "product selection permitted." The prescribing physician shall communicate instructions to the pharmacist by entering his or her non-electronic, handwritten signature on the appropriate line.
7. It is improper for any prescription for a controlled substance to be signed by any person in the place of or on behalf of the prescribing physician.
8. It is improper, under any circumstances, for a physician to pre-sign blank prescription pads or forms and make them available to employees or support personnel.
9. It is improper for a physician to utilize blank prescription pads or forms upon which the signature of the physician has been mechanically or photostatically reproduced.
10. The Board may assess an administrative fine not to exceed ten thousand dollars ($10,000.00) for each separate violation or failure to comply with the prescription guidelines provided in this rule.

Upon an initial determination by the Board that any physician may have violated these rules and regulations the attorney for the Board shall serve upon the physician, either in person or by registered mail, an administrative complaint setting forth the specific violation or failure to comply, and shall advise the physician of his right to a hearing before the Board under the provisions of the Alabama Administrative Procedure Act §41-22-1 et. sec. Code of Alabama, 1975. The Administrative Complaint will further advise the physician that he may voluntarily execute and deliver to the Board a waiver of hearing and consent to the imposition of an administrative fine in an amount previously established by the Board. If the physician executes the voluntary waiver and consent then the Board shall be authorized to immediately assess the established administrative fine.

If the physician declines to execute the voluntary waiver and consent or makes no response then the Board shall set a hearing to be held at least thirty (30) days after the Service of the Administrative Complaint. The hearing shall be considered a contested case and shall be conducted under the provisions of §41-22-12 Code of Alabama, 1975.

All fines assessed by the Board shall be due and payable to the Board within thirty (30) days from the date the fine is levied or assessed unless a request for judicial review under Code of Ala. 1975, §41-22-20, is filed, in which event the fine is due and payable to the Board thirty (30) days after the final disposition of the judicial review process. The name of any physician more than sixty (60) days delinquent in the payment of a fine which has been assessed by the Board which is not subject to judicial review shall be forwarded to the Medical Licensure Commission with a request that the annual certificate of registration of that physician not be renewed until the fine has been paid and satisfied in full.

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 and for the development, administration and presentation of programs of continuing medical education for physicians licensed to practice medicine in Alabama.

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KENTUCKY

PHYSICIAN/ARNP COLLABORATIVE AGREEMENT GUIDELINES

Kentucky statutes allow Advanced Registered Nurse Practitioners (ARNPs) to issue prescriptions for non-scheduled legend drugs as defined in KRS 217.905. Before an ARNP engages in the prescribing of non-scheduled legend drugs, as authorized by KRS 314.011(8), the ARNP is required to enter into a written collaborative practice agreement with a physician that defines the scope of the prescriptive authority.

Pursuant to KRS 311.595(9), as illustrated by KRS 311.597(4), a physician's practice must conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky. The Board has adopted the following guidelines as the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky regarding a physician's role in such collaborative agreements:

1. The physician entering into a collaborative agreement must possess a full and unrestricted Kentucky medical license in good standing and shall have an active clinical practice in the state in which no less than twenty hours per week shall involve direct patient care.
2. Agreements will be automatically terminated when disciplinary action is taken against the physician. When disciplinary action is taken the physician must notify the affected nurse(s) and the Kentucky Board of Nursing of the disciplinary action and the termination of the agreement.
3. A physician may not enter into a collaborative agreement with more than two ARNPs at any given time. The collaborative agree ment cannot exceed two years in length but may be renewed.
4. The physician must practice in the same geographical area as the ARNP. The physician does not have to be present when the ARNP is providing services. However, there must be reliable means available to have direct communication with the physician at all times.
5. The physician shall be trained and fully qualified in the field of the ARNP's specialty.
6. The agreement must contain a formal arrangement for coverage to be utilized when the physician is not available in the same geographical area.
7. The collaborative agreement shall be in writing, signed and dated by the physician and the ARNP.
8. Any physician entering into a collaborative agreement shall notify the KBML in writing. The fully executed copy of the collaborative agreement shall be kept in the physician's office. Upon request, the physician will be required to provide a copy of the agreement to the Board.

The Board may grant an exemption of any of the above guidelines based upon factors unique to a particular situation or relationship.

Reprinted from the *Kentucky Board of Medical Licensure Newsletter*

MISSOURI

DO YOU MAINTAIN COMPLETE RECORDS FOR EACH OF YOUR PATIENTS?

If not, you may be in violation of a new state statute. Senate Bill 1024 was passed during the 2002 Legislative Session requiring all Missouri licensed physicians to maintain adequate and complete patient records for each patient. The legislation, which became effective on August 28, 2002, details what information should be included in the patient's record. The legislation states that the Board may not discipline a physician solely based on a violation of this statute. However, if the Board initiates disciplinary proceedings for any reason other than a

violation of this statute, then the Board may allege violation of this statute as an additional cause for discipline. The complete text of the legislation is as follows:

334.097.

1. Physicians shall maintain an adequate and complete patient record for each patient and may maintain electronic records pro vided the record-keeping format is capable of being printed for review by the State Board of Registration for the Healing Arts. An adequate and complete patient record shall include documen tation of the following information:
   1. Identification of the patient, including name, birthdate, address and telephone number;
   2. The date or dates the patient was seen;
   3. The current status of the patient including the reason for the visit;
   4. Observation of pertinent physical findings;
   5. Assessment and clinical impression of diagnosis;
   6. Plan for care and treatment, or additional consultations or diagnostic testing, if necessary. If treatment includes medication, the physician shall include in the patient record the medication and dosage of any medication prescribed, dispensed, or administered;
   7. Any informed consent for office procedures.
2. Patient records remaining under the care, custody and control of the licensee shall be maintained by the licensee of the Board, or the licensee's designee, for a minimum of seven years from the date of when the last professional service was provided.
3. Any correction, addition or change in any patient record made more than forty-eight hours after the final entry is entered in the record and signed by the physician shall be clearly marked and identified as such and the date, time and name of the person making the correction, addition or change shall be included, as well as the reason for the correction, addition or change.
4. A consultative report shall be considered an adequate medical record for a radiologist, pathologist or a consulting physician.
5. The Board shall not initiate disciplinary action pursuant to subsection 2 of section 334.100 against a licensee solely based on a violation of this section. If the Board initiates disciplinary action against the licensee for any reason other than a violation of this section, the Board may allege violation of this section as an additional cause for discipline pursuant to subdivision (6) of subsection 2 of section 334.100.
6. The Board shall not obtain a patient medical record without written authorization from the patient to obtain the medical record of a subpoena for the patient medical record.

Do not hesitate to contact the Board's office or any member of the Board if you have any questions about this new law.

Reprinted from the *Healing Arts New.* Vol 17, No. 2. published by the Missouri State Board of Registration

ELECTRONIC AUTOMATED PRESCRIBING

The Missouri State Board of Registration for the Healing Arts recently reviewed a request from a physician regarding the use of prescription management software and hardware in the office.

Questions were directed to the Board members asking if these programs meet the Missouri and Federal Laws governing electronic automated prescribing. The Board directed staff to request an opinion from Bureau of Narcotics and Dangerous Drugs (BNDD) and Drug Enforcement Administration (DEA) regarding this issue and determine what safety measures would be needed for the software and hardware.

The Missouri BNDD provided information that included both State and Federal Regulations regarding electronic automated prescribing.

In summary the information received states the following:

"A prescription may be pre-printed, computer-generated, or written by another staff member, but in each of these cases, the authorizing physician must manually sign their signature on the prescription. This is mandated by state and federal law to ensure the physician has actually authorized the issuance of the prescription. Section 195.060.1, RSMo 2000 is where this information is found."

Federal Regulation 1306.05(a) states:

"All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use and the name, and address of the registration number of the practitioner. A practitioner may sign a prescription in the same manner he would sign a check or legal document. Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by the secretary or agent for the signature of the practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by these regulations."

The Missouri Board of Pharmacy supplied the same information, however they also advised in the case of faxed or computer generated prescriptions that the pharmacists must verify with the physician that he/she did authorize and sign the prescription. There is a pending federal law that should change this however, as of the writing of this report, pharmacists are required to verify the signature.

Under the state code of regulations for the Pharmacy Board under section 4 CSR 220-2.085, which is entitled *Electronic Transmission of Prescription Data,* paragraph B states "to maintain the confidentiality of patient records, the system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of patients records." Paragraph C3 states "telephone verification with the practitioners office that the prescription that as both written by the practitioner and transmitted by the practitioner or the practitioner's authorized agent." This requires it to be verified by the Pharmacist to be authentic.

Regarding the security questions from the software, it appears that if the physician is using 128-bit encryption on his browser, that this will make the system secure enough to use. Software systems also recommend using and installing security on the physician's PDAs as well as using a firewall type system.

Reprinted from *Healing Arts News,* Vol. 17, No. 2, published by the Missouri Sate Board of Registration for the Healing Arts

NEW MEXICO

NMBME POLICY STATEMENT NO. 1 REQUIREMENTS FOR IMMUNIZATION PROGRAMS INVOLVING NEW MEXICO PHYSICIANS OF PHYSICIAN ASSISTANTS

(In locations outside of hospital clinics, public health clinics, physician offices, e.g. flu shots at grocery and drug stores)

1. There shall be a New Mexico licensed physician or physician assistant on the premises at all times when and where immunizations are offered.
2. Administration of Vaccine shall be authorized and supervised by a licensed physician or physician assistant who shall hold current certification in Basic Life Support (BLS).
3. Resuscitation equipment shall be available at each location where immunizations are given and personnel shall be familiar with its use. Equipment shall include at a minimum:
   - Copy of emergency protocols,
   - Adverse Reaction Forms,
   - Epinephrine dose packs or epinephrine ampules and syringes,
   - CPR micro-shield,
   - Emergency Medical Services number, 911 or applicable telephone numbers, and
   - Phone number of nearest medical facility providing emergency services.
4. Storage and transportation of vaccine shall comply with manufacturer protocol as printed on containers.
5. Each patient receiving vaccine shall complete an Immunization Consent Form, including at least questions on allergies, current medications, acute and chronic health problems and/or pregnancy. Immunization record forms should be available to patients.
6. Site of vaccine administration shall be separated from business activity to provide privacy for taking history and be clean and sanitary.
7. Telephone numbers to call for acute or delayed adverse reactions and follow-up advice must be given to each vaccine recipient in writing.

Approved date: November 21, 2002

PENNSYLVANIA

ACUPUNCTURE CHANGES

On May 16, 2002, Governor Schweiker signed into law Senate Bill 1007, which made significant changes to Pennsylvania's Acupuncture Registration Act. Most importantly, this legislation removed the requirement that acupuncturists be supervised by a physician.

Under the new law, prior to administering the first treatment, the acupuncturist must ensure that the patient has secured a written referral by a licensed physician for treatment by acupuncture. In addition, the acupuncturist must ensure that the patient has undergone a medical diagnostic examination or has had a licensed physician review the results of a recently performed medical diagnostic examination.

The Act also permits acupuncturists to perform supplemental techniques including the use of traditional and modern oriental therapeutics, heat therapy, moxibustion, electrical and low-level laser stimulation, acupressure and other forms of massage, herbal therapy and counseling, including the therapeutic use of food supplements and lifestyle modifications. The Act permits students in acupuncture programs to perform acupuncture or supplemental

techniques in the course of their instruction, so long as they are supervised by a licensed acupuncturist who is on site. The Act also permits faculty and guest lecturers to perform acupuncture or supplemental techniques in the course of student instruction if they are licensed in this Commonwealth or have obtained temporary registration in the Commonwealth.

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LET US HEAR FROM YOU

Would you like for information from your board to be considered for publication in the *Journal?* If so, e-mail articles and press releases to Edward Pittman at epittman@fsmb.org or send via fax to (817) 868-4098.