



Board News

The newsletter of the Alaska State Medical Board.

Summer, 2001

IMPORTANT NEW REGULATIONS GO INTO EFFECT

Effective June 15, 2001 two important new regulations became law. These regulations will impact the practice of some physicians and physician assistants around the state, but for the majority, the effect of the regulations will be negligible.

The first regulation, 12 AAC 40.930, Requirements for Reporting the Outcome of Malpractice Claims or Actions, sets out a detailed list of information the medical board requires to be reported. The medical board has long had in place statutes that required license holders to report to the board "the outcome of each malpractice claim or civil action in which damages have been or are to be paid by or on behalf of the licensee..." The problem for the board was that a wide range of information was being reported, from a copy of the National Practitioner's Data Bank report to simply a letter from the physician's attorney stating that a claim had been settled with no other information. The board was unable to effectively evaluate the reports to determine if there should or should not be board involvement in the matter.

To address that problem, the board wrote a regulation that will require that specific data elements be reported. The board, at its regular meetings, will review each

report and make a recommendation as to further disposition. The board may recommend that no further action is taken, or it may request the report be forwarded to the investigations unit for further inquiry.

The second important regulation defines exactly what data must be maintained in patient records. Regulation 12 AAC 40.940 establishes a standard for an adequate patient record. The board was experiencing problems when, during investigations, it was found that the practitioner did not keep either an adequate patient record or any record at all when treating the patient. The board's unprofessional conduct regulations have a provision that provides for disciplinary sanctions for "failing to prepare and maintain accurate, complete, and legible records in accordance with generally accepted standards of practice for each patient..." Because of that language, the board had to define what the generally accepted standard of practice was for patient records.

Both regulations are printed in their entirety on page 4 of this newsletter for your ready reference. If you would like a copy of the medical board's complete statutes and regulations booklet, please contact either of the board's offices and we would be happy to send you a copy. ★

Medical Board Vital Stats as of June 30, 2001

Actively Licensed MDs	1,735	Actively Licensed PAs	234
Actively Licensed DOs	118	Inactively Licensed PA	11
Actively Licensed DPMs	16	Actively Licensed Paramedics	233
Inactively Licensed MD/DO	284	Inactively Licensed Paramedics	0
Actively Licensed MDs Inside Alaska (52%)	894	Actively Licensed MDs Outside Alaska (48%)	838
Actively Licensed DOs Inside Alaska (66%)	66	Actively Licensed DOs Outside Alaska (34%)	40

Total Medical Board Licensees 2,631

The Fall, 2000 "Board News" reported a total of 2,880 licensees - this year's total represents a decrease of 9.1% (249 licensees) since December 31, 2000. Alaska's current population is 626,000; a doctor to patient ratio of 1:644.

PHYSICIAN ASSISTANTS GAIN SEAT ON THE BOARD

A bill sought by the Alaska Academy of Physician Assistants that would alter the composition of the Alaska State Medical Board successfully navigated its way through the legislature this past session.

Governor Tony Knowles signed into law a provision that adds a physician assistant to the medical board as a full member. The physician assistants of the state have long met with the board to discuss matters important to their practice. At its January 2001 meeting, the medical

board lent its support to the Academy in its effort to gain representation on the board.

The board welcomes this addition to its membership and looks forward to continuing its history of collegial and productive relations with the physician assistants of Alaska while working to provide the quality standard of care for which they are known.

The governor's office has not announced who will fill this seat but an appointment is expected soon. ★

Board Actions

September 1, 2000 to June 1, 2001

ROMEY, Hugo, MD	10/27/2000	Reprimand, Civil Fine of \$2,000
Failure to disclose investigations in another state (2); failure to disclose restricted license in another state.		
DAVIDHIZAR, Lavern R., DO	10/27/2000	Probation for Two Years, Reprimand, Civil Fine of \$5,000
Prescribed drugs without maintain appropriate records; left presigned scripts in office that were used by a PA inappropriately.		
BROCKMAN, Ronald, DO	10/27/2000	Reprimand, Civil Fine of \$5,000
Prescribed drugs without maintaining appropriate records for a person with whom he acknowledged a personal relationship.		
YOUNG, Lloyd, MD	10/27/2000	License Application Denied
Application denial based on 12 AAC 40.967 (18)(B) use of illegal drugs.		
FISHER, Arthur James, DPM	10/27/2000	License Application Denied
Failure to meet threshold license application requirements.		
SHANNON, Mary Elizabeth, PA-C	01/18/2001	Reprimand, Civil Fine of \$1,000 with \$500 Stayed If No Violation of Law within Six Months
Continued to practice without an active collaborative plan with a physician (only practiced 8 days in a two-year period).		
WYATT, Sylvia A., PA-C	01/18/2001	Reprimand
Authorized the use of a Schedule II controlled drug without the proper approval of collaborating physician.		
FENN, Susan K., DPM	01/18/2001	Reprimand, Civil Fine of \$3,000
Failed to renew DEA registration in 1990 and continued to write scripts for controlled drugs without a valid DEA registration.		
LEACH, William Charles, MD	01/18/2001	License Suspended
FL license suspended for allegations of sexual misconduct; substance abuse treatment.		
HOPSON, Raymond D., MD	01/19/2001	Reprimand, Civil Fine of \$1,000
Failure to disclose investigation in another state in application for Alaska license.		

Board Actions (Continued)

- STRAATSMA, Glen W.** **01/19/2001** **Memorandum of Agreement with Permanent Restrictions, Civil Fine of \$10,000 with \$5,000 Suspended**
Restored surrendered license with memorandum of agreement that includes five-year probation with monitoring and other permanent restrictions; license to be restored after successful execution of MOA and completion of all license renewal requirements; civil fine to be paid within 180 days of execution of MOA.
- GRAHAM, Jack L., MD** **03/08/2001** **End of Probation**
Successfully completed probation in NM; AK probation connected to NM probation. Unrestricted NM license verified.
- ALLEN, Janet Kiehle, MD** **04/09/2001** **Reprimand, Civil Fine of \$2,000**
Failure to disclose past investigations in another state (2).
- CARTER, Thomas Mark, MD** **04/09/2001** **Reprimand, Civil Fine of \$2,000**
Failure to disclose disciplinary history during residency training in application for license.
- HICKMAN, James Murray, PA-C** **04/09/2001** **License Surrender**
License surrendered while under active investigation; allegations of practicing without a valid collaborative plan.
- COLESCOTT, Paula J., MD** **05/02/2001** **End of Probation**
Successful completed five-year probation in AK; board lifted permanent restrictions to license.
- NELSON, Jennifer L., MICP** **05/08/2001** **Memorandum of Agreement with Five-Years Probation**
Allegations of diversion of medications, major depressive disorder, alcohol abuse; MOA with practice restrictions.
- MAKIM, Jayesh D., MD** **05/25/2001** **Memorandum of Agreement with Five-Years Probation**
License to be restored upon completion of license renewal requirements and successful execution of MOA that provides for five-year probation with practice restrictions.

BOARD WELCOMES NEW MEMBER

Governor Tony Knowles' office recently announced the appointment of David Head, MD, to the Alaska State Medical Board. The vacancy was created last fall with the election of Dr. Donald C. Olson to the state Senate.

Originally from Idaho, Dr. Head first came to Alaska in 1974 working in fish canneries in Cordova and Valdez, and later on the Trans-Alaska Pipeline project. He continued working construction in the oil business during the summers while he obtained his bachelor's degree in 1981 and his MD degree in 1985 from the University of Arizona School of Medicine. He worked in

Bethel and its surrounding villages during medical school and residency training. He moved to Nome in 1988 becoming chief of staff at the Norton Sound Health Corporation hospital there in 1989. Dr. Head and his wife have raised their five children in Nome and continue to enjoy life in rural Alaska. He is board certified in Family Practice.

Congratulations to Dr. Head on his appointment. The board and its staff look forward to working with him on many important and challenging issues. ★

STATE MEDICAL BOARD MEMBERS

Sarah A. Isto, MD, Chair, Juneau	David M. Head, MD, Nome
Keith M. Brownsberger, MD, Anchorage	Constance E. Livsey, Public Member, Anchorage
Martha T. Cotten, MD, Anchorage	Sheila Means, Public Member, Juneau
Irvin A. Rothrock, MD, Fairbanks	

NEW REGULATION 12 AAC 40.930 Requirements for Reporting the Outcome of Malpractice Claims or Actions.

(a) A person licensed under this chapter shall submit to the board a signed, notarized report on a form provided by the department, explaining the outcome of each malpractice claim or action against the licensee in which damages have been or are to be paid, whether by judgement or settlement. Reports shall be submitted to the board within 30 days of the date of the resolution of the claim or action.

(b) Malpractice reports shall include the

- (1) name and address of the licensee;
 - (2) telephone number of the licensee;
 - (3) date of the occurrence;
 - (4) summary of the alleged malpractice;
 - (5) summary of the licensee's response to the allegations;
 - (6) case, claim, or court number of the malpractice claim or action; if a court action was not filed, the medical record or chart number, and the location of the records relating to the alleged malpractice;
 - (7) amount of the award or settlement paid or to be paid by or on behalf of the licensee;
 - (8) date of award or settlement;
 - (9) following type of resolution of the claim or action:
 - (A) court or jury award;
 - (B) settlement following initiation of civil court action;
 - (C) settlement before the initiation of civil court action;
 - (D) other private compromise.
- (c) Failure to submit a malpractice report required by this section constitutes unprofessional conduct under 12 AAC 40.967 and is subject to disciplinary action by the board.

NEW REGULATION 12 AAC 40.940 Standards of Practice for Record Keeping.

(a) A physician or physician assistant licensed by the board shall maintain adequate records for each patient for whom the licensee performs a professional service.

(b) Each patient record shall meet the following minimum requirements:

- (1) be legible;
 - (2) contain only those terms and abbreviations that are or should be comprehensible to similar licensees;
 - (3) contain adequate identification of the patient;
 - (4) indicate the dates that professional services were provided to the patient;
 - (5) reflect what examinations, vital signs, and tests were obtained, performed, or ordered concerning the patient and the findings and results of each;
 - (6) indicate the chief complaint of the patient;
 - (7) indicate the licensee's diagnostic impressions of the patient;
 - (8) indicate the medications prescribed for, dispensed to, or administered to the patient and the quantity and strength of each medication;
 - (9) reflect the treatment provided to or recommended for the patient;
 - (10) document the patient's progress during the course of treatment provided by the licensee.
- (c) Each entry in the patient record shall reflect the identity of the individual making the entry.
- (d) Each patient record shall include any writing intended to be a final record. This subsection does not require the maintenance of preliminary drafts, notes, other writings, or recordings once this information is converted to final form and placed in the patient record.

BOARD STAFF

	Address		Office Phone	Fax Phone
Leslie G. Abel, Executive Administrator	3601 C Street - Suite 722	Anchorage AK 99503	907/269-8163	907/269-8196
Colin Matthews, Senior Investigator	3601 C Street - Suite 722	Anchorage AK 99503	907/269-8179	907/269-8195
Debra Luker, Investigator	3601 C Street - Suite 722	Anchorage AK 99503	907/269-8176	907/269-8195
Joanie Stude, Licensing Examiner	P O Box 110806	Juneau AK 99811-0806	907/465-2541	907/465-2974
Miriam Patredis, Administrative Clerk	3601 C Street - Suite 722	Anchorage AK 99503	907/269-8163	907/269-8196

SOME MALPRACTICE CLAIM TRIVIA

The Physician Insurers Association of America compiled the following data. This information was gathered from more than 160,000 claims and suits processed by the member companies of the association and represent 12,000 claims and suits annually.

PERCENTAGE OF CLAIMS PAID:	1986 - 33.7%	1992 - 33.9%	1998 - 31.4%
AVERAGE PAYMENT IN 1998 DOLLARS:	1986 - \$143,900	1992 - \$212,600	1998 - \$240,900

TOP FIVE MEDICAL CONDITIONS

CLAIMS CLOSED BETWEEN 1985 AND 1998			
	TOTAL CLAIMS	AVERAGE INDEMNITY	MEDIAN INDEMNITY
MALIGNANT NEOPLASMS OF THE FEMALE BREAST	3,092	\$207,786	\$125,000
BRAIN DAMAGED INFANT	3,014	\$473,627	\$499,764
PREGNANCY	2,326	\$139,502	\$32,500
MYOCARDIAL INFARCTION, ACUTE	2,108	\$186,509	\$100,000
DISPLACEMENT OF INTERVERTEBRAL DISC	2,006	\$193,382	\$100,000

TOP FIVE MISADVENTURES - ALL SPECIALTIES

4.4%	Procedure Not Performed
4.8%	Medication Errors
9.1%	Failure to Monitor Case
29.4%	Errors in Diagnosis
31.4%	Improper Performance

TOP FIVE MISADVENTURES - SURGEONS

4.6%	Failure to Recognize Complication
4.7%	Procedure Not Performed
8.8%	Failure to Monitor Case
14.6%	Errors in Diagnosis
45.1%	Improper Performance

TOP FIVE MISADVENTURES - PRIMARY CARE

5.4%	Procedure Not Performed
9.3%	Medication Error
11.4%	Failure to Monitor Case
14.4%	Improper Performance
40.1%	Errors in Diagnosis

SPECIALTY COMPARISON - NUMBER OF CLAIMS PAID 1996 - 1998

<u>Top 5 Specialties</u>		<u>Bottom 5 Specialties</u>	
OB/GYN	1,312	Pathology	43
Family Practice	1,126	Gastro-Nonsurgical	46
Internal Medicine	998	Psychiatry	80
General Surgery	988	Dermatology	84
Orthopaedic Surgery	725	Gynecology	88

SPECIALTY COMPARISON - AVERAGE PAYMENT

<u>Top 5 Specialties</u>	1986 - 1988	<u>Top 5 Specialties</u>	1996 - 1998
Neurosurgery	\$193,500	Neurology	\$376,800
Pediatrics	\$158,500	Neurosurgery	\$333,400
OB/GYN	\$146,800	OB/GYN	\$306,000
Otorhinolaryngology	\$136,400	Cardiovascular Diseases	\$269,900
Anesthesiology	\$120,600	Anesthesiology	\$256,600
(> 100 paid claims)		(> 100 paid claims)	

NATIONAL PRACTITIONER DATA BANK REPORTING REQUIREMENTS

Since much of this issue of *BoardNews* is focused on malpractice reporting requirements, it seems like a good time to review the malpractice reporting requirements of the National Practitioner Data Bank. The following information is taken from Section E "Reports" of the NPDB Guidebook.

WHO REPORTS:

<u>Entity</u>	<u>Physicians/ Dentists</u>	<u>Other Health Care Practitioners</u>
Medical Malpractice Payers Payment resulting from written claim or judgment	Must Report	Must Report
State Licensing Boards Licensure disciplinary actions based on reasons related to professional competence or conduct	Must Report	Must Report
Hospitals and Other Health Care Entities Professional review actions, based on reasons related to professional competence of conduct, adversely affecting clinical privileges for a period longer than 30 days; or voluntary surrender or restriction of clinical privileges while under, or to avoid, investigation	Must Report	May Report
Professional Societies Professional review actions, based on reasons relating to professional competence of conduct, adversely affecting membership	Must Report	May Report

Each entity that makes a payment for the benefit of a physician, dentist, or other health care practitioners in settlement or, or in satisfaction in whole or in part of, a claim or a judgment against that practitioner must report the payment information to the Data Bank. A payment made as a result of a suit or claim solely against an entity (for example, a hospital, clinic, or group practice) and that does not identify an individual practitioner is not reportable.

Eligible entities must report when a lump sum payment is made or when the first of multiple payments is made.

Medical malpractice payments are limited to exchanges of money and must be the result of a written complaint or claim demanding monetary payment for damages. The written complaint or claim must be based on a practitioner's provision of or failure to provide health care services. A written complaint or claim can include, but is not limited to, the filing of a cause of action based on the law of tort in any State or Federal court or other adjudicative body, such as a claims arbitration board.

Medical malpractice payers must report medical malpractice payments within 30 days from the date a payment is made. The report must be submitted simultaneously to the Data Bank and the appropriate State Licensing Board in the State in which the malpractice claim occurred. Reports must be submitted regardless of how, or if, the matter was settled (for instance, court judgment, out-of-court settlement, or arbitration).

WHAT IS REPORTED:

Reporting entities should provide a detailed narrative to describe the acts or omissions and injuries or illnesses upon which the medical malpractice action or claim was based. This narrative must be 2,000 characters or less.

Narrative descriptions should include seven general categories of information:

- 1) **Age**
Patient's age at the time of the initial event; age is expressed in years if the claimant is one year of age or older, in months from one month through eleven months; and in days if the claimant is less than one month of age. UNKNOWN may be used if applicable.
- 2) **Sex**
Male, female, and disputed. Disputed may be used in claims involving individuals whose sex has been physically altered or who are physically one sex but live outwardly as the other.
- 3) **Patient Type**
Generally an indication of inpatient or outpatient status, this category is useful when the event might occur in a variety of clinical settings.
- 4) **Initial Event (Procedure/Diagnosis)**
Usually the event upon which the claim is predicated; it should reflect a generic diagnosis and procedure, if applicable.
- 5) **Subsequent Event**
Usually an occurrence that precipitated the claim of medical and/or legal damages, the time sequence in relation to the initial event is relevant.
- 6) **Damages (Medical and/or Legal)**
A description of damages resulting from the initial and subsequent events.
- 7) **Standard of Care Determination**
If the payer made a determination whether or not a standard of care was made, include the determination.

Sample Narratives:

A 33-year old male inpatient had surgery for adhesions and developed a urinary tract blockage postoperatively. Emergency surgery revealed a stitch in the right ureter. He alleged negligent performance of surgery and lack of informed consent. Standard of Care was not met.

A 9-month-old girl was seen in a private office with fever and treated symptomatically. The next day she was brought to the hospital in convulsions. Her parents allege that a delay in the diagnosis of meningitis caused permanent neurological damage. No determination as to Standard of Care was made.

WHEN ARE REPORTS SUBMITTED:

Reports must be submitted to the Data Bank and the appropriate State Licensing Boards within 30 days of the date that a **payment** is made. The report must be submitted regardless of how the matter was settled (for instance, court judgment, out-of-court settlement, or arbitration). The trigger for reporting to the Data Bank within 30 days is the date the payment was made (the date of the payment check), not the date the payment was received or accepted. The 30-day period commences on the day following the date of payment.

The above information was reprinted from the National Practitioner Data Bank Guidebook, May, 1996.

CHANGE OF ADDRESS FORM: Please print or type. Indicate your preferred mailing address by checking the box. Circle profession: MD/DO/DPM/PA/MICP

Name of Licensee _____ License No. _____
Last First M.I.

Mailing Address _____

City, State, Zip _____

Telephone - Day _____ Fax: _____

Is this a: Practice Address Residence Address

Mail your completed change of address form to:

For MD/DO/DPM/MICPs:

Alaska State Medical Board
P. O. Box 110806
Juneau AK 99811-0806

For PA-Cs:

Alaska State Medical Board
3601 C Street - Suite 722
Anchorage AK 99503

Check our website: www.dced.state.ak.us/occ/pmed.htm

Do you have a question you would like presented to the board? Please contact the board's administrator with any questions or issues you would like the board to address.

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