

RISK REDUCTION MEASURES AGAINST STATE BOARD ACTIONS

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As the potential impact of an adverse finding by the State Board of Medical Examiners increases exponentially through the increased utilization of the New Jersey Physician Profile, terminations by health plans and the devastating use of such data in medical malpractice actions, every physician should be accessing their areas of risk and implementing as many risk reduction measures as possible – and on a regular basis. In an effort to be of assistance in that pursuit, here is a sampling of significant steps that can be implemented by every physician - with virtually no cost to the practice and on an immediate basis.

1. Chaperones: The State Board of Medical Examiners has now put forward a formal policy as to the required use of chaperones. It can be accessed at www.state.nj.us/lps/ca/bme/statreg/bmeregulations2.pdf. Every physician should immediately obtain the SBME policy, review it carefully, post it in their Employee Manuals and ensure that their staff understands (and acknowledges that understanding in writing) the need for strict compliance with the policy terms (including documenting that compliance in detail and without exception).

2. Prescribing: As a result of a study which estimated that more than sixty percent of all adverse medical outcomes are caused by prescribing errors, there is considerable pressure being brought to bear in the arena of prescribing. Pharmacists are being audited, reviewed and pressurized to report any questionable prescribing patterns or practices by physicians. Actions which may have gone largely unnoticed years ago (i.e., self-prescribing, prescribing for family members without a medical record, etc.) are now being routinely acted upon. In response, every physician should access the SBME prescribing regulations (also found at www.state.nj.us/lps/ca/bme/statreg/bmeregulations2.pdf), review them carefully and ensure that they are strictly and steadfastly compliant.

3. Patient Care Reviews: In today's practice of medicine, there is no such thing as a casual, peer to peer, informational, educational or similarly characterized "benign" patient care review. Each and every time a physician's care is reviewed there are potentially dire consequences. As each review arises – whether it be at the hospital level, by a health plan, a state or federal agency or simply in response to a patient complaint – no physician should respond (in any manner or to any degree) without first reviewing the medical record in detail, obtaining the rules, by-laws or regulations governing that review and responding, without emotion and to only the issue under review. If the review is resolved favorably, or the complaint is withdrawn, the physician should obtain that disposition in writing, or at minimum, confirm the successful resolution in writing. Anticipating a later SBME investigation of virtually every patient care review, no criticism, allegation, inference or attack on a physician can, or should, be taken lightly, go unanswered or be left unresolved.

Through adoption and implementation of these three simple steps, physicians can, at best, dramatically reduce their risk of facing a State Medical Board investigation – or at worst, be better prepared to favorably answer (and thereby favorably conclude) an investigation when it takes place.

Should any physician, or medical practice, have any questions, Mr. Schoppmann can be contacted at either 908-704-8585 or schoppmann@drlaw.com.