

2009 Annual Report
Kentucky Board of Medical Licensure
Preston P. Nunnelley, M.D., President

As many Kentuckians continue to struggle during these difficult economic times, the focus on healthcare and its growing costs and other implications continue to garner the public's attention. The Kentucky Board of Medical Licensure recognizes these concerns and continues to strive to uphold the Commonwealth's high standards for medical practice and meet the mandate of public protection through its efforts to ensure that all applicants are qualified and competent practitioners. The Board also continues its effort to protect the citizens of the Commonwealth from the unprofessional, improper, unlawful, fraudulent and incompetent practice of medicine.

The Board remains committed to its role as the body that represents the citizens of Kentucky in the licensing and disciplining of medical and osteopathic physicians practicing medicine in the Commonwealth; however, the Board also has the responsibility of regulating other health care professionals such as physician assistants, surgical assistants, athletic trainers and acupuncturists as well. While these professions cover many different areas of the health care spectrum, the Board members expend a great deal of effort to understand the different scopes of practices and make responsible and informed decisions.

Currently, the Board is made up of 15 members consisting of seven medical physicians who are in private practice, one osteopathic physician, three consumers-at-large representatives, the Deans of Kentucky's three medical/osteopathic schools and the Commissioner of Public Health for the Cabinet for Health and Family Services.

This year, the Board welcomed its newest member when Governor Steve Beshear appointed Tamella B. Cassis, M.D. of Prospect. Dr. Cassis is a Dermatologist who practices in Louisville. Her appointment replaces Donald J. Swikert, M.D., whose term had expired. In June of 2009 a special luncheon was held in honor of Dr. Swikert's many years of service on the Board. The Board members recognized Dr. Swikert for his many contributions to medicine and offered its appreciation for his work as a Panel Chairman and for his role on the Kentucky Physicians Assistant Advisory Committee.

The full Board meets quarterly to review applications for medical and osteopathic licensure. Last year the Board considered 1,380 initial applications for various licenses to practice in the state. As a result, 911 new medical licenses were granted and 97 osteopathic licenses were issued. The Board also issued 612 temporary permits to practice in the state and issued 241 residency training licenses, 25 institutional training licenses, 11 fellowship training licenses and nine faculty licenses. The Board also certified 74 new physician assistants, 33 new athletic trainers, 25 surgical assistants and five acupuncturists.

In addition to licensing, the Board is also responsible for reviewing and investigating grievances filed against these individuals. The Board reviews grievances of professional misconduct, moral turpitude and practice irregularities, which may include the inappropriate prescribing of controlled substances. Grievances come to the Board from consumers, hospitals, government agencies, physicians and healthcare professionals. Once the grievance is reviewed and thoroughly investigated, it is presented to a Board Inquiry/Hearing Panel for review. If the matter cannot be resolved through an informal process, the matter may be referred to a formal hearing to determine the facts and decide if disciplinary action is warranted.

During the year, the Board's Inquiry/Hearing Panels met 10 times and reviewed 210 grievances, which included 114 investigative reports. As a result, formal disciplinary action was initiated against 36 physicians' licenses. Three licenses were surrendered, 21 licenses were restricted, three licenses were revoked, three licenses were suspended and two licenses were placed on probation. The Board currently has 278 physicians' licenses under some form of Order and another 29 are under a Letter of Agreement with the Kentucky Physicians Health Foundation.

At the present time, the Board has an operating budget of over \$2.5 million. As in past years, the Board has witnessed a growing trend in state officials transferring funds from the Board's reserve funds to offset the state's budget deficit. While the Board understands this move, it has generated some concern that the continued acceleration of these transfers may inhibit the Board's future operations. It is important to note that the Board receives no money from the State's General Fund, and all income to operate the Board's office is generated from fees charged to physicians, physician

assistants, athletic trainers, surgical assistants and acupuncturists. We currently have 20 full-time employees to carry out the Board's responsibilities, including our own legal department that handles disciplinary proceedings and other legal matters.

As a physician, I see the role of the Board as not only protecting the health, safety and welfare of the public but also ensuring that we make every attempt to assist physicians in communicating and addressing complex issues in medicine. As a means of communication with the physician community, the Board publishes a quarterly Newsletter. The Newsletter provides physicians with updates regarding changes in statutes, regulations and policies dealing with the practice of medicine. It is sent to all physicians with an active Kentucky medical or osteopathic license and has proven to be a valuable resource to physicians. The Newsletter also reports all disciplinary actions recently taken by the Board against physicians who have violated the Medical Practice Act.

During the recent General Assembly, several bills were introduced that would impact the Board. HB99, which deals with Charitable Health Care Providers, was passed and allows the Board to issue temporary waivers to out-of-state physicians with a license in good standing in another state. Legislators also considered changes to the physician assistant statutes that would allow them to prescribe controlled substances in a similar fashion as ARNP's, which the Board opposed. This bill failed to pass, but we anticipate that it will be reintroduced during the next legislative session.

In the fall of 2008, the Board agreed to withdraw all of its existing published guidelines as a result of a request made by the Kentucky General Assembly's Administrative Regulation Review Subcommittee (ARRS). Pursuant to the ARRS request and clarification, the Board is currently working on reissuing many of these documents in the form of Board opinions. The Board issues each opinion pursuant to the Board's statute KRS 311.602 in order to assist licensees in determining what actions would constitute unacceptable conduct under the provisions of KRS 311.595. The Board publishes its opinions because they address issues of significant public and medical interest. Once these changes are made, the opinions will again be listed on the Board's website. Currently, the Board's website lists four Board opinions. It is

important to note that the Board's opinions are not statutes or administrative regulations nor do they hold the force of law.

One of the most recent opinions adopted by the Board addresses the minimum standards of acceptable and prevailing medical practice for physicians involved in collaborative agreements with ARNP's. This opinion was adopted at the Board's September 2008 meeting and was requested by the Kentucky Medical Association on behalf of its members in order to provide guidance to any physician who intends to enter or does enter into a collaborative agreement with an ARNP. The Board announced its adoption of this opinion in its Winter 2009 Newsletter, and it is available via the Board's website, www.kbml.ky.gov.

One issue that continues to remain on the Board's radar is Kentucky's ongoing problem with prescription drug abuse. In 2009, the Board supported efforts by the Kentucky Cabinet for Health and Family Services, Office of Inspector General, Division of Audits and Investigations, Drug Enforcement and Professional Practices Branch to amend their regulation, 902 KAR 55:030, to add Tramadol to the list of Schedule IV controlled substance products in Kentucky. This effort came as a result of the significant concerns made by numerous healthcare professions that illegal use of Tramadol was a growing problem. On a related issue, the Board was pleased to announce to all licensed physicians via its Newsletter that physicians can now have access to the prescription monitoring programs of all states bordering Kentucky. The Board believes that utilization of prescription monitoring programs such as KASPER is one of the most important methods that a Kentucky physician can utilize to identify prospective drug diversion.

The Board also addressed physicians who may have concerns regarding their patient's access to pain medications in a Newsletter article that appeared in the Fall of 2008. In that article, the Board acknowledged the challenging nature of providing appropriate medical care for patients with legitimate clinical pain. The Board encouraged and reassured the medical community that it is appropriate and good compassionate practice to treat these patients noting that physicians should understand that if they follow reasonable procedures consistent with the Board's opinion and

appropriately note them in the patient's medical records, they will not be subject to undue criticism or disciplinary action.

Support and funding of the Kentucky Physicians Health Foundation continues to be an emphasis of the Board. The primary purpose of this program is to provide the early identification, intervention, treatment and rehabilitation of physicians who may be impaired by reason of illness, alcohol or drug abuse, or a mental condition. Through the collaborative efforts of the Board and James T. Jennings, M.D., Medical Director of the Foundation, many physicians have been rehabilitated, and under proper supervision they have been able to return to the active practice of medicine

State statutes require all physicians practicing in Kentucky to renew their license by March 1st of each year to keep their license active. In an effort to make the license renewal process easier, the Board utilizes an on-line renewal application. The on-line application was well received with over 92% of physicians utilizing this service. Currently, 10,194 physicians are registered in the state and another 4,413 physicians outside the state have an active license. Overall, there are a total of 14,607 physicians currently maintaining a Kentucky medical or osteopathic license.

In order to maintain an active Kentucky medical or osteopathic license, a physician must obtain 60 hours of continuing medical education for the current three-year cycle. Thirty of these hours must be in Category I. The remaining 30 hours can be in Category 1 or may consist of non-supervised personal training activities designated as Category 2 CME hours. A total of 1,328 physicians were audited during the past three-year cycle. Of those audited, 24 physicians were fined and granted a six-month extension to complete the CME requirement, and six licenses were suspended due to noncompliance.

The Board's website, www.kbml.ky.gov, continues to provide valuable information about the Board, policy statements, a direct link to the state Medical Practice Act, administrative regulations and other information for physicians, physician assistants, athletic trainers and surgical assistants. Consumers can also go to the website and find out how to file a grievance and have access to a profile of all physicians. Overall, our website continues to receive positive feedback from the medical community, consumers and various state and law enforcement agencies.

A program status report summarizing the various activities of the Board for the past year is attached. The report includes the total number of meetings held by the Board, its Inquiry Panels and the four advisory committees during the year. The report also lists the total number of licenses issued, the various disciplinary actions taken against licenses along with the number of grievances filed and investigated during the year.

This is a summary of some of the activities the Board has been involved with this past year. In closing, I would like to express my appreciation to the members of the Board and staff for their continued hard work and dedication throughout the year. The Board will continue its efforts to protect the public and make every effort to improve the quality of health care being provided by physicians practicing in the Commonwealth.

**Kentucky Board of Medical Licensure
Status Report - Fiscal Year 2009
Medical and Osteopathic Physicians**

Meetings Held	FY2009
Board of Medical Licensure	4
Inquiry/Hearing Panels	10
 Services Provided	
Renewals and Applications:	
Registered in State	*10,194
Registered Out of State	4,413
Applications Approved for Initial Licensure	1,380
New Licenses Issued:	
Medical Licenses	911
Osteopathic Licenses	97
Temporary Permits	612
Residency Training Licenses	241
Institutional Practice Limited Licenses	25
Fellowship Training Limited Licenses	11
Faculty Licenses	9
 Disposition of Grievances and Disciplinary Actions Taken	
New Cases Opened	244
New Cases to Panels	210
New Cases Investigated	114
New Cases Pending	125
Malpractice Cases Reviewed	25
Disciplinary Proceedings Authorized	36
Complaints Issued	13
Emergency Orders of Suspension	7
Emergency Orders of Restriction	3
Actions Taken:	
Agreed Order of Indefinite Restriction	21
Agreed Order of Surrender	3
Agreed Order of Probation	2
Agreed Order of Revocation	1
Agreed Order of Suspension	2
Agreed Order of Fine	4
Agreed Orders	14
Interim Agreed Orders	16
Order of Revocation	2
Order of Suspension	1
Orders Amended	28
Letters of Agreement	11
Letters of Admonishment	4
Letters of Concern	12

* Includes retired physicians in Kentucky.

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Meetings Held:	FY2009
Physician Assistant Advisory Committee	4
State Council on Athletic Trainers	4
Surgical Assistant Advisory Committee	4
Acupuncture Advisory Committee	3
Services Provided:	
Physician Assistants:	
Active	858
New	74
Athletic Trainers:	
Active	427
New	33
Surgical Assistants:	
Active	175
New	25
Acupuncturists:	
Active	46
New	5