Maryland
BPQA
NEWSLETTER

Maryland Board of Physician Quality Assurance
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# EDUCATIONAL REHABILITATION FOR BOUNDARY VIOLATIONS

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The recent increase in reported allegations of sexual misconduct has highlighted the need to provide effective educational rehabilitation. Many medical ethics courses do not address the issue of physician-patient boundaries. Furthermore, the fact that one "knows the rules" does not mean that he or she understands the conceptual grounding that led to those rules. It might be said, in fact, that the issue of physician-patient boundaries is as much a clinical issue as an ethical one. Compliance with professional standards is hopefully more likely if one understands the dynamics of power and vulnerability inherent in any trust-based relationship, especially one involving the isolation, personal disclosure, physical intimacy, and emotional dependency that are so often a part of the physician-patient relationship.[1]

**Unfortunately, sexual misconduct is a topic that is rarely covered during the normal medical education process. For many offenders, therefore, such a rehabilitation program is the physician's first formal exposure to the topic. The frequent assertion that one "should know better" than to become sexually involved with a patient is not supported either by the facts or by the convictions of a great many practicing physicians.[2]** An offender may be asked to "complete a graduate level course in professional ethics." Such a requirement, however well-intended, does not ensure either (a) that the course includes subject matter relevant to the offense in question, or (b) that the respondent has satisfactorily mastered relevant concepts. It has been suggested that one of the most effective ways to educate the offending physician is to require the physician to undergo a tutorial experience designed to meet these objectives. The Board of Physician Quality Assurance (BPQA) has increasingly moved toward such a procedure, and I have been among those asked to conduct such tutorials.

The education program itself should begin with the tutor's knowledge of the public aspects of the case, as well as other rehabilitative measures expected by BPQA. The tutor should first interview the physician about the events that led to the Board's sanctions. This is followed by a

reading program customized to the situation, which may be supplemented by the physician's attendance at lectures, seminars, or continuing education programs that may occur during the course of the tutorial experience. The physician should meet periodically with the tutor to discuss his or her progress and reactions to the reading. Finally, the physician is asked to write a paper with appropriate documentation which includes at least the following sections: (a) a brief account of the physician's own experience, (b) a description of the professional standards regarding physician-patient boundaries, including the basis for those standards, (c) a discussion of risk factors for both physician and patient that may increase the probability of sexual involvement, (d) a statement of what the physician might do of a preventive nature were he or she in a situation similar to that which led to the violation in question, and (e) suggestions as to what the profession might do to minimize the probability of inappropriate physician-patient involvement. The submitted paper is revised as necessary, after which the tutor makes his or her final report to BPQA.

It is important that the physician be involved in an ongoing program of psychotherapy with a therapist who also understands the issues of physician-patient boundaries. The physician is often confused, depressed, angry, or in a continued state of denial during early stages of the rehabilitation process. If these feelings are not being addressed, an educational rehabilitation program cannot be fully effective.[3]

Attorneys often recommend that a physician/client accused of sexual misconduct demonstrate his or her remorse and good intentions by voluntarily beginning certain rehabilitative activities, such as psychotherapy or education, before a case has been adjudicated. Although such efforts may be commendable, they should be considered in addition to, rather than instead of, any program initiated and approved by BPQA. Any professional chosen by the respondent to conduct such activities is likely to be less qualified and less objective than one selected by BPQA.[4]

The Board has a number of important responsibilities in constructing and monitoring a rehabilitation program. When a physician is found to be in violation, the Board must first determine whether he or she is an appropriate candidate for rehabilitation. There is a great deal of heterogeneity among sexual offenders, and certain ones (e.g., multiple offenders judged to have a narcissistic personality disorder) may never be able to understand the inappropriateness of their actions.[1] However, rehabilitation criteria can be built into revocation orders, both providing guidance to a subsequent board and more effective consumer protection when the physician reapplies for a license after the suspension has elapsed.

It is not unusual for a physician who violates sexual boundaries to have violated other professional standards as well. The scope of a rehabilitation program should take this possibility into account. The Board must consider possible consequences of a violation of probation while a rehabilitation program is in progress. The program should be followed by a period of monitoring, so that it can be determined whether what is taught during the rehabilitation period is actually put into practice.[3] Conscientiously conducted programs are likely to be more effective and more deserving of the public trust in our ability to reliably rehabilitate offending professionals.

Whatever program is prescribed, it must be centrally coordinated so that the Board has some assurance that the respondent is once again fit to practice without restriction.[4] Through a team of compliance officers, the Maryland Board of Physician Quality Assurance serves this important function. Not only is the future of the rehabilitated physician at stake here, but it is also possible that those responsible for a rehabilitation program could be held liable should a second chargeable offense of a similar nature occur.[4]

**References:**


1. Schoener, G.R. & Gonsiorek, J. (1988). Assessment and development of rehabilitation plans for counselors who have sexually exploited their patients. *Journal of Counseling and Development*, 67, 227-232.

2. Gartrell, N.K., Milliken, N., Goodson, W.H., III, Thiemann, S., and Lo, B. (1992). Physician-patient sexual contact: Prevalence and problems. *The Western Journal of Medicine*, 157, 139-143.

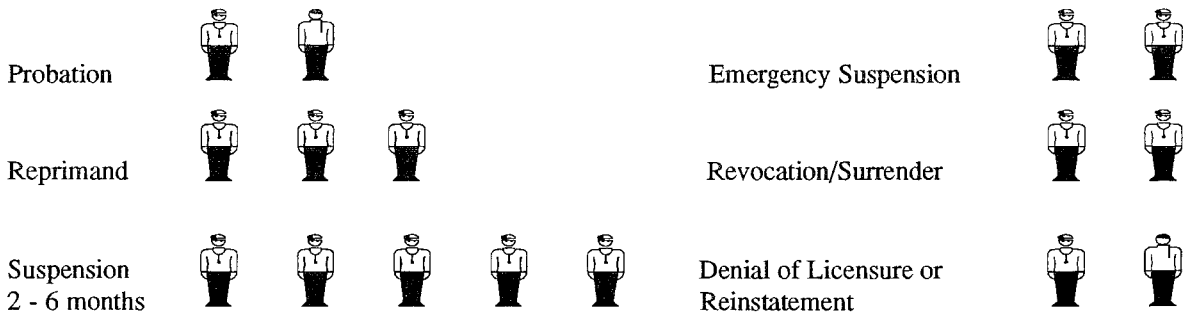
3. Abel, G.G., Barrett, D.H., and Gardos, P.S.(1992). Sexual misconduct by physicians. *Journal of the Medical Association of Georgia*, 81, 237-246.

4. Pope, K.S. (1989). Rehabilitation of therapists who have been sexually intimate with a patient. In G.O. Gabbard (ed.), *Sexual Exploitation in Professional Relationships*. Washington, D.C.: American Psychiatric Press, pp. 129-136.

## A SUMMARY OF 1994 SEXUAL MISCONDUCT CASES

In 1994, BPQA charged or denied 19 health care providers licenses or certificates because of issues related to sexual misconduct. This was almost double the number disciplined in 1993. The allegations ranged from kissing and fondling, non-consensual sexual contact with patients, to attempted rape. Eight licensees were disciplined for having affairs with patients. Three licensees were charged with unprofessional conduct in the practice of medicine for allegations of sexual harassment of other health care personnel. Currently, BPQA is investigating sexual misconduct allegations against about 25 physicians and three of the cases initiated in 1994 await resolution.

**Disciplinary Actions for Sexual Misconduct**




## MORE ON THE USE OF CHAPERONS

In a previous BPQA newsletter, the use of chaperons was discussed. It was pointed out that the chaperon's primary function is to protect the physician from unwarranted claims of inappropriate behavior. **Of the many complaints about the performance of physical examinations alleging misconduct, there is one type of patient evaluation that precipitates a disproportionate number of allegations. This is the independent medical examination, often referred to as the IME.** Physicians performing an IME have no ongoing relationship with the patient. They are evaluating the patient to generate a report which will subsequently be used to establish the validity of a patient's claim of permanent injury or disability. When the results of an independent medical evaluation fail to support the patient's claims, the patient may respond with a complaint to BPQA that the examination was incomplete, erroneous, false, or improperly performed. Occasionally, even sexual misconduct is alleged. Physicians performing IMEs should recognize that their role may become adversarial and their use of chaperons will diminish their risk of being the object of an embarrassing claim.

**Another situation that is frequently associated with allegations of improper physician behavior is the requirement that the patient be evaluated by the "company doctor" or any other situation in which the patient's options are severely restricted and they are not able to exercise their free choice.** As more physicians assume the "gatekeeper" role in managed care contracts, many more physicians are being cast in this somewhat adversarial role. The patient may resent being seen by their primary care doctor whom they picked off some list. The doctor's attempt to perform a thorough examination may be regarded as an intrusion into the patient's privacy. Often, all the patient really wants from the primary care doctor is a referral slip so they can see a specialist. The patient may expect the primary care physician to accept their word that they know what's wrong and whom they <u>really</u> need to see. An unchaperoned examination in this volatile atmosphere is an invitation to a patient complaint.

Historically, most malpractice claims against physicians involve situations in which the doctor-patient relationship is of short duration and of little depth on a personal level. Similarly, claims of sexual misconduct can frequently occur when the patient knows little about the doctor who provides a consultation and there is little time to establish the rapport that allows a patient to accept being touched and probed by a stranger. Physicians who have not had the opportunity to establish trust and rapport would be wise to protect themselves by routinely utilizing a chaperon until the doctor-patient bond is established. The presence of a chaperon is a compelling mitigating factor in the doctor's favor when allegations start flying.

Attorneys have queried BPQA whether the failure to use a chaperon implies the doctor is guilty of some offense. Absolutely not. But if an allegation of misconduct is filed, the unchaperoned physicians have only their word and their written record to defend themselves. The majority of sexual misconduct cases charged by the Board involve only one complainant and the case may boil down to who is the more credible witness. If the patient's version of events is believable, the unchaperoned physician may regret not having had another person present who could attest to the physician's appropriate conduct when the case comes to a hearing.

# BOARD DISCIPLINARY ACTIONS
## JANUARY 1 - MARCH 31, 1995

**JACK**, Joseph Jr., M.D., License #D05538. **Inactive license approved.** The probation imposed in the final order on March 15, 1994 is tolled. The physician must obtain prior approval of the Board to practice medicine in Maryland. The physician plans to retire from the practice of medicine. Effective 1/1/95.

**HUNT**, Richard M. Jr., M.D., License #D13619. **Three years probation subject to conditions.** The Board found that the physician failed to meet the standards of care in his practice of internal medicine based on a practice review. Effective 1/10/95.

**HAN**, Chong Choon, M.D., License #D27924. **The probation imposed by the November 19, 1991 Order is terminated.** The physician must obtain prior approval of the Board before practicing medicine in Maryland. The physician had complied with the probationary period imposed by the consent order. Effective 1/17/95.

**HAROUN**, Naji J., M.D., License #D19133. **The suspension of the physician's license imposed by the Consent Order of November 10, 1994 is terminated. Probation for three years subject to terms and conditions began on January 23, 1995.** The physician had met conditions precedent to the termination of his suspension. The probationary conditions are based on the Board's conclusion that the physician had failed to meet standards of care in his prescribing practices. Effective 1/23/95.

**HOROWITZ**, Alan J., M.D., License #D22952. **License revoked.** The physician pleaded guilty in New York to one count of sodomy in the first degree in violation of Section 130.50 (3) of the Penal Law of the State of New York and, therefore, comes within the mandate of Maryland statute which requires revocation. Effective 1/25/95.

**JAYADEVA**, Shobha, M.D., License #D29835. **License suspended. The suspension is immediately stayed and the physician is placed on three years probation subject to terms and conditions in regard to the office billing practices.** Fine of $25,000. The Board's order is based upon its determination of inaccuracies in records and improper billings in the physician's practice. Effective 1/25/95.

**SCHWIETERMAN**, William, M.D., License #D36419. **Reprimand.** The physician shall notify the Board before resuming clinical practice. The Board concluded that the physician failed to meet the standard of care in the treatment of a patient and demonstrated less than optimal judgement in the care for four other patients. Effective 2/7/95. **An April 26, 1995 Order supersedes the Order of 2/7/95. The physician has complied with the conditions precedent to resuming the clinical practice of medicine.**

**AZIMA**, Ali A., M.D., License #D16230. **Probation, with conditions imposed by the Commission on Medical Discipline, is terminated.** The Maryland Board received documentation of successful completion of conditions of probation under a Florida disciplinary order issued in November of 1987 and terminated in 1989. Effective 2/21/95.

**KOTLER**, Everett G., M.D., License #D06560. **Granted an inactive license.** The probation conditions imposed by the Final Order issued December 20, 1994 are tolled until the physician's license is reinstated. The physician shall not practice medicine in the State of Maryland until he appears before the Board. The physician continues to reside and practice medicine in New Jersey. The New Jersey State Board of Medical Examiners continues to monitor the physician's prescribing for weight loss or weight control. Effective 2/21/95.

**ANDREWS**, Rawle, M.D., License #D00272. **Probation to run concurrent with the probation set forth in the physician's consent agreement of April 15, 1994 with the State of Texas.** The physician entered into an Agreed Order with the Texas Board of Medical Examiners as a result of prescribing controlled substances with addictive potential for two patients for extended periods without adequate indication. Effective 2/22/95.

**BELIZAN**, Luciano R., M.D., License #D23752. **Suspension for six months; suspension stayed. Three years probation subject to terms and conditions and a $20,000 fine.** The Board concluded that the physician practiced medicine with an unauthorized person in his practice of obstetrics and gynecology. This sanction addressed an administrative problem in his practice. Effective 2/22/95.

**COATES-WILKES**, Charlotte, M.D., License #D02332. **Reprimand.** The Board found that the physician was guilty of unprofessional conduct in the practice of medicine. The physician signed five reports which represented that the physician had seen the patients when no evaluation occurred. Effective 2/22/95.

**LANKFORD**, James E. Jr., Cardiac Rescue Technician, Certification #E03116. **Certificate surrendered**, which was prompted by an investigation of the Board into a suspension at Charlestown Emergency Medical Services based on his administration and documentation of use of a controlled dangerous substance. Effective 2/22/95.

**JACKSON**, Coleman R., Respiratory Therapist, Certification #: L01007. **Certification reinstated; probation for five years subject to terms and conditions.** Effective 2/28/95.

**ROSS,** Bradford A., M.D., License #D26689. **Reinstated, subject to terms and conditions.** After the voluntary surrender of his license, the physician sought appropriate treatment relative to his arrest on counts of possession of and attempting to obtain controlled dangerous substances. Effective 3/2/95.

**KHAYAT**, A. Victor, M.D., License #D05925. **Probation imposed by the Consent Order dated September 22, 1993 is terminated.** The physician has complied with the terms and conditions pursuant to the consent order. Effective 3/7/95.

**PALLIA**, Riccardo, Medical Radiation Technician, Certification #R01468. **Reprimand.** The Board found this health provider aided unauthorized persons in the practice of medical radiation technology because he supervised the individual who recommended the hiring of radiation technicians at Bowie Health Center and signed as chief executive office on employment hiring papers. These technicians engaged in their profession while they were uncertified. Effective 3/7/95

**SOUDAH**, Truman F., M.D., License #D18966. **Probation, with conditions imposed by the 12/21/93 order and the 3/31/94 order, terminated.** The physician has demonstrated satisfactory compliance with these orders. Effective 3/14/95.

**OMLAND**, Omar K., M.D., License #D16665. **Probation terminated.** The physician has complied with the conditions precedent for the termination of his probation. Effective 3/22/95.

**CORDOVA**, Edmund S., M.D., License #D25096. **Suspended.** The suspension is based upon the revocation of the physician's license in New Mexico for sexual misconduct with patients in that State, and upon a 1984 Reprimand from the U.S. Army for "unprofessional and indecent conduct during his medical examination of several women patients," and a 1986 Reprimand from the Army for unprofessional conduct in the practice of medicine. Effective 3/22/95.

**HOBBS**, William Ronald, M.D., License #D25213 (4001 Liberty Heights, Baltimore, 21207).. **Reprimand. Six months probation subject to terms and conditions and a fine of $5,000.** The Board based its action on an hospital adverse action report which stated that the "physician knowingly submitted insurance certificate which stated he was insured by Medical Mutual Insurance Company. Verification of this coverage revealed that he was not insured." This sanction is administrative in nature and not based on competency to practice medicine. Effective 3/22/95.

**OLWINE**, Robert W., M.D., License #D36246. **Suspension stayed. Three years probation subject to terms and conditions.** Based on a peer review, the Board concluded that the physician failed to meet the standard of care for the practice of emergency medicine. Effective 3/22/95.

**PANAH**, Mansour G., M.D., License #D15506. **Suspension for 60 days, suspension stayed. A fine of $7,500 is imposed. Three years probation subject to terms and conditions.** The Board found the physician guilty of unprofessional conduct in the practice of medicine because of inappropriate and sexual contract with a patient. Effective 3/22/95.

**RENJEL**, Luis E., M.D., License #D02534. **Suspended, effective 3/23/95.** The Board found the physician guilty of immoral and unprofessional conduct in the practice of medicine because of allegations of fondling a patient during the course of a physical exam and the physician's statement during the investigation that he kissed the patient and otherwise touched her. Effective 3/23/95.

**INOCENCIO**, Narciso F., M.D., License #D41106. **Suspension terminated. Three years probation subject to terms and conditions.** The physician complied with the conditions precedent to the termination of the suspension of his license. Effective 3/30/95.

## NEW LOOK FOR 1995 PHYSICIAN RENEWAL FORM

Physicians whose last names begin with the letters "M" to "Z" are up for licensure renewal this year. Renewal applications are mailed in late June to the last address physicians supplied to the Board. This year the renewal form is in a booklet format similar to that used by the IRS for tax returns.

The deadline for receiving renewal applications is September 30, 1995. Physicians who fail to return their applications by this date are no longer licensed to practice in Maryland and may not legally do so until their license is reinstated by the Board. In the two month period following expiration of licensure, the Board will accept the renewal application form with the renewal application fees and exact a $50 penalty fee. Physicians whose licensure has lapsed or who wish to change their licensure from "Inactive" to "Active" status may apply for reinstatement on a form supplied by the Board.

**Do not delegate filling out a licensure renewal to your staff.**

Errors on this form may result in the Board taking a disciplinary action against you. In general, it's best to give the Board a full explanation of your circumstances on an attached sheet of paper when you are unsure how a question on a renewal form may apply to you. Withholding information is likely to result in a disciplinary action when the Board later discovers an inconsistency. Full disclosure is your best and safest course of action. If further information is required, the Board will contact you. Meanwhile, if you have filed the renewal application by September 30, 1995 and paid the appropriate fees, you may legally practice while the Board investigates the adverse information and resolves any issues which may affect the public safety.

If you do not receive your renewal form in early July, the Board may not have your current address. It is your responsibility to notify the Board of an address change within 60 days of your move. Failure to do so will result in a $100 penalty.

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