

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS NEWSLETTER



630 Camp Street
New Orleans, La. 70130
Post Office Box 30250
New Orleans, La. 70190-0250
Telephone: (504) 524-6763
Facsimile: (504) 568-8893

MARY LOU APPLEWHITE, M.D., Baton Rouge, *President*
TRENTON L. JAMES, II, M.D., Baton Rouge, *Vice-President*
ELMO J. LABORDE, M.D., Lafayette, *Secretary-Treasurer*
KEITH C. FERDINAND, M.D., New Orleans
IKE MUSLOW, M.D., Shreveport
RICHARD M. NUNNALLY, M.D., Baton Rouge
F. P. BORDELON, JR., M.D., Marksville

Volume 11, Number 2

October 1998

Reminder

In order to avoid any unnecessary confusion or inconvenience to those physicians seeking to renew and continue their medical licenses in effect for the year 1999, the Board takes this opportunity to reiterate below its advice respecting modification of the annual renewal cycle for medical licensure, previously disseminated to all Louisiana licensed physicians in the May 1998 edition of this *Newsletter*.

Conversion of Renewal Period to Birth Month — No Increase in Fees

In recent years, the increased number of individuals and additional allied health care professionals licensed by the Board has resulted in a tremendous burden on the Board's staff during the annual December renewal process. Although the Board mailed out renewals earlier last year than in previous years, few took the opportunity to submit their renewal applications early, resulting in the last minute rush during the holiday season and the usual overloading of the Board's resources to process the now more than 27,000 renewals in a limited period of time. As some of you have wisely suggested, in August 1998 the Board adopted rule amendments which provide a change in the renewal process commencing in 1999. Based on an analysis of the statistical data, the Board concluded that the best distribution of the effort would be a conversion of the renewal cycle based upon the first day of the month in which each licensee is born ("the birth month"). Such a conversion, in our view, will facilitate processing and greatly diminish the burden imposed on the Board's staff by distributing renewals more evenly throughout the year. While the renewal cycle for midwives, who renew biannually in March, athletic trainers, who renew annually in June, clinical laboratory personnel and, due to their limited number, acupuncturists, will remain in December, the amendments adopted by the Board have converted all other categories of licensees to a birth month cycle commencing in the years 1999/2000. Set forth below is an illustration of how such conversion will apply to physicians. Prorations similar to those for physicians will apply to all affected licensees based on the current fee for each health care professional.

With 1999 renewal notices each licensee will receive a statement for the existing fee of \$150.00 for the year 1999, plus a prorated monthly fee of \$12.50, for every month beyond January 1, 2000, to the licensee's birth month:

Birth Month	Renewal Fee for 1999 to Birth Month in 2000	Next Renewal of \$150.00 Due
January	\$150.00	January 1, 2000
February	\$162.50	February 1, 2000
March	\$175.00	March 1, 2000
April	\$187.50	April 1, 2000
May	\$200.00	May 1, 2000
June	\$212.50	June 1, 2000
July	\$225.00	July 1, 2000
August	\$237.50	August 1, 2000
September	\$250.00	September 1, 2000
October	\$262.50	October 1, 2000
November	\$275.00	November 1, 2000
December	\$287.50	December 1, 2000

Like any change, the rule amendments adopted by the Board will, no doubt, be problematic during the first year of implementation. Such will not, however, result in any increase in fees, as the prorated amount assessed in 1999 will extend the license up to the first day of the licensee's birth month in the year 2000. The Board requests your indulgence, assistance and cooperation during the upcoming renewal period.

Board Update

The Board's Rules Respecting Controlled Substances Used in the Treatment of Chronic Pain

The Board would like to take this opportunity to emphasize the statement of position, which was disseminated in the May 1998, edition of this *Newsletter*, respecting the use of controlled substances in the treatment of non-malignant, chronic or intractable pain. Also included in this publication are additional questions and answers designed to educate physicians in the application of its rules concerning controlled substances used in the treatment of chronic pain (the "rules").

Reiteration - Statement of Position

THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS WISHES TO EMPHASIZE TO ALL LOUISIANA PHYSICIANS THAT IF FULLY SUPPORTS PRESCRIBING OF CONTROLLED SUBSTANCES WHEN MEDICALLY INDICATED FOR THE TREATMENT OF PAIN, INCLUDING CHRONIC OR INTRACTABLE PAIN.

Principles of quality medical practice dictate that citizens of Louisiana who suffer from pain should be capable of obtaining relief that is currently available, including controlled and non-controlled medications and alternative treatment modalities. The Board believes that the appropriate application of currently available knowledge and treatments would greatly improve the quality of life for many Louisiana citizens.

The Board recognizes that pain, whether due to trauma, cancer, surgery or other diseases, is often undertreated. Unrelieved pain has a harsh and sometimes disastrous impact on the quality of life of patients and their families.

While some progress is being made to improve access to appropriate care, the Board is concerned that a number of factors continue to interfere with effective pain management. These include the low priority of pain management in our health care system, incomplete integration of current knowledge into medical education and clinical practice, lack of knowledge among consumers about pain management, and exaggerated fears of physicians about disciplinary action for employing controlled substances in the management of patients suffering from chronic pain.

This installment represents the Board's continuing attempts to both educate physicians of the requirements of its rules and to address perceived misconceptions as to the rules' scope and application.

■ Questions and Answers. Although the rules are short, concise and clear, the following questions and answers may provide additional assistance to physicians with respect to the scope and application of the rules.

Q 1. Are the rule requirements overly extensive, unreasonable and burdensome.

A: The standards required by the rules in the treatment of chronic pain with controlled substances should not be difficult to implement even when viewed by ordinary practice standards. When the rules are applicable—when not treating patients suffering from symptomatic cancer or when controlled substance therapy exceeds a total of twelve weeks during any twelve month period—compliance with the rules should not be hard to accomplish. If the physician has already recorded (i) a medical history (including pain, alcohol and substance abuse); (ii) has conducted an evaluation of the patient (including a review of previous diagnostic records, an assessment of coexisting conditions or diseases); (iii) has performed a complete physical examination; (iv) and has made an attempt to diagnose the cause or mechanism underlying the pain, then only two additional items are necessary: formulation of an individualized treatment plan (which includes justification for the use of controlled substance therapy, documentation that other therapies have been offered or attempted and have failed to relieve the pain, and the intended role of the controlled substances in the overall treatment); and documentation that the patient or guardian understands the risks and benefits of such therapy, including the risk of addiction. Once the physician initiates controlled substance therapy based on the above, he needs only to examine the patient at intervals not greater than twelve weeks to assess the effectiveness of treatment, any adverse drug reactions, signs of medication abuse, addiction or diversion and thoroughly document his efforts and the medication which he prescribes.

Q 2. Is the use of toxicology (drug screens) required even before initiating controlled substance therapy?

A: No. The use of toxicology is at the physician's discretion and the usual principles of utilization should apply. Toxicology is only required if the physician reasonably believes that the patient's account of current medication usage is inaccurate or if

there are questions of compliance during treatment, *i.e.*, that the patient is addicted, abusing or diverting medications.

Q 3. Is consultation with a second physician, particularly a psychiatrist or addictionologist, required in all cases?

A: No. Consultation is by no means required in all cases. In many instances consultation is beneficial if a second physician is closely involved in the patient's concomitant treatment, especially if there are anticipated issues of compliance, addictive behavior, drug interactions, or the patient presents with a difficult medical status. If consultation is obtained the treating physician is free to determine whether such should be by formal, second evaluation or by a verbal consultation supported by an entry in the patient's chart. If the treating physician determines that consultation is not necessary in any given case, he need simply document the reason why such was not obtained.

Q 4. Are the Board's rules intended to discourage prescribing of controlled substances for the treatment of pain?

A: Absolutely not. The rules are intended and designed to accomplish several distinct and legitimate goals: to facilitate the legitimate prescribing of controlled substances in the treatment of chronic pain by dispelling unjustified fears of disciplinary action when none is necessary; to provide physicians, patients and all concerned with a clear and mutual understanding of what the prevailing and usually accepted standards of care are in rendering such treatment; to eliminate the time consuming and costly effort of establishing what the "prevailing standard of care" is on a case-by-case basis in administrative adjudications before the Board; and to provide a sound and definitive basis to judge instances which clearly fall outside of acceptable practices. Moreover, as mentioned in our last *Newsletter*, in 1997 the Louisiana legislature enacted a measure establishing a Pain Advisory Committee of the Board to both assess and provide the Board with comments and recommendations on its pain rules and to provide the Legislature with recommendations respecting, among other matters, barriers to access to care by patients suffering from chronic pain. A large portion of the Committee's duties are devoted to studying and making recommendations aimed at addressing undertreatment of chronic pain. The Board eagerly awaits the Committee's recommendations to access what additional measures may be available to facilitate the appropriate treatment of chronic pain. The Committee's report is anticipated early next year.

Q 5. Where did the Board derive its rules?

A: The rules represent a compilation of information obtained from a variety of sources, *i.e.*, recommendations for treating chronic pain with controlled substances published by a number of associations, organizations and groups; guidelines and rules adopted by other state medical boards; laws enacted by other states; authoritative writings, scientific studies and information accumulated by the Board over a number of years pertaining to the issue; and oral and written input submitted to the Board by a number of individuals and groups during the public comment period for the rules.

Q 6. How many disciplinary actions has the Board taken thus far against physicians who have violated the rules?

A: None. While the treatment and prescribing practices of most physicians who have been investigated this past year predate the effective date of the rules, which were adopted in mid-1997, the Board is primarily interested in educating and counseling physicians who make a conscious effort to comply with the rules. In fact, the Board is considering the feasibility

[†] The Board's statement of position was published in its *Newsletter* (Nov., 1991).

of entering into a cooperative agreement with the Louisiana State Medical Society, similar to that which has been established for impaired physicians. The objective of such an agreement would be directed towards educating, rather than disciplining, physicians in appropriate prescribing practices whenever possible.

Q 7. How can a Louisiana physician obtain guidance if he is uncertain whether his practice complies with the rules?

A: The Board stands ready to directly respond to such inquiries. Further, it is more than happy to refer those who seek direction to various members of its Pain Committee, who have graciously volunteered to assist in this role. In addition, the

Louisiana State Medical Society has already undertaken substantial efforts to educate physicians on the rules' requirements and are a likely source of further assistance.

■ **Education Strategies/Requests For Input.** Again, the Board encourages all physicians to review and familiarize themselves with the rules. Additional information relating to educational measures which we are considering, as well as additional questions and answers, will be addressed in subsequent editions of the *Newsletter*. In the interim, physicians are again encouraged to submit any specific written questions regarding its pain rules and/or further suggestions for educational formats to the attention of the Board's Executive Director.

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS BULLETIN

630 Camp Street
New Orleans, La. 70130
Post Office Box 30250
New Orleans, La. 70190-0250
Telephone: (504) 524-6763
Facsimile: (504) 568-8893

MARY LOU APPELWHITE, M.D., Baton Rouge, *President*
TRENTON L. JAMES, II, M.D., Baton Rouge, *Vice-President*
ELMO J. LABORDE, M.D., Lafayette, *Secretary-Treasurer*
KEITH C. FERDINAND, M.D., New Orleans
IKE MUSLOW, M.D., Shreveport
RICHARD M. NUNNALLY, M.D., Baton Rouge
F. P. BORDELON, JR., M.D., Marksville

October 1998

Reminder

In order to avoid any unnecessary confusion or inconvenience to those individuals seeking to renew and continue their licenses in effect for the year 1999, the Board takes this opportunity to reiterate its advice respecting modification of the annual renewal cycle for licensure, previously disseminated to Louisiana licensed professionals in the May 1998, edition of this *Bulletin*.

Conversion of Renewal Period to Birth Month — No Increase in Fees

In recent years, the increased number of physicians and additional allied health care professionals licensed by the Board has resulted in a tremendous burden on the Board's staff during the annual December renewal process. Although the Board mailed out renewals earlier last year than in previous years, few took the opportunity to submit their renewal applications early, resulting in the last minute rush during the holiday season and the usual overloading of the Board's resources to process the now more than 27,000 renewals in a limited period of time. As some of you have wisely suggested, in August of 1998 the Board adopted rule amendments which provide a change in the renewal process commencing in 1999. Although a number of options were considered, *i.e.*, quarterly, semi-annually, bi-annually, based on an analysis of the statistical data, the Board concluded that the best distribution of the effort would be a conversion of the renewal cycle based upon the first day of the month in which each licensee is born ("the birth month"). Such a conversion, in our view, will facilitate processing and greatly diminish the burden imposed on the Board's staff by distributing renewals more evenly throughout the year. While the renewal cycle for midwives, who renew biannually in March, athletic trainers, who renew annually in June, clinical laboratory personnel and, due to their limited number, acupuncturists, will remain in December, the amendments adopted by the Board have converted all other categories of licensees to a birth month cycle commencing in the years 1999/2000. Set forth below is an illustration of how the proposed conversion will apply to licensees.

Podiatrists

With 1999 renewal notices each licensee will receive a statement for the existing fee of \$25.00 for the year 1999, plus a prorated monthly fee of \$2.08 to the licensee's birth month, for every month beyond January 1, 2000:

Renewal Fees		
Podiatrist		\$25.00
Birth Month	Renewal Fee for 1999 to Birth Month in 2000	Next Renewal of \$25.00 Due
January	\$25.00	January 1, 2000
February	\$27.08	February 1, 2000
March	\$29.16	March 1, 2000
April	\$31.24	April 1, 2000
May	\$33.32	May 1, 2000
June	\$35.40	June 1, 2000
July	\$37.48	July 1, 2000
August	\$39.56	August 1, 2000
September	\$41.64	September 1, 2000
October	\$43.72	October 1, 2000
November	\$45.80	November 1, 2000
December	\$47.88	December 1, 2000

Registered Dispensing Physicians

With 1999 renewal notices each registrant will receive a statement for the existing fee of \$50.00 for the year 1999, plus a prorated monthly fee of \$4.17 to the licensee's birth month, for every month beyond January 1, 2000:

Renewal Fees		
Registered Dispensing Physicians		\$50.00
Birth Month	Renewal Fee for 1999 to Birth Month in 2000	Next Renewal of \$50.00 Due
January	\$50.00	January 1, 2000
February	\$54.17	February 1, 2000
March	\$58.34	March 1, 2000
April	\$62.51	April 1, 2000
May	\$66.68	May 1, 2000
June	\$70.85	June 1, 2000
July	\$75.02	July 1, 2000
August	\$79.19	August 1, 2000
September	\$83.36	September 1, 2000
October	\$87.53	October 1, 2000
November	\$91.70	November 1, 2000
December	\$95.87	December 1, 2000

Physician Assistants

With 1999 renewal notices each licensee will receive a statement for the existing fee of \$100.00 for the year 1999, plus a prorated monthly fee of \$8.33 to the licensee's birth month, for every month beyond January 1, 2000:

Renewal Fees		
Physician Assistants		\$100.00
Birth Month	Renewal Fee for 1999 to Birth Month in 2000	Next Renewal of \$100.00 Due
January	\$100.00	January 1, 2000
February	\$108.33	February 1, 2000
March	\$116.66	March 1, 2000
April	\$124.99	April 1, 2000
May	\$133.32	May 1, 2000
June	\$141.65	June 1, 2000
July	\$149.98	July 1, 2000
August	\$158.31	August 1, 2000
September	\$166.64	September 1, 2000
October	\$174.97	October 1, 2000
November	\$183.30	November 1, 2000
December	\$191.63	December 1, 2000

Occupational Therapists/Occupational Therapy Assistants

With 1999 renewal notices each licensee will receive a statement for the existing fee of \$25.00 for the year 1999, plus a prorated monthly fee of \$2.08 to the licensee's birth month, for every month beyond January 1, 2000:

Renewal Fees		
Occupational Therapists		\$25.00
Occupational Therapy Assistants		\$25.00
Birth Month	Renewal Fee for 1999 to Birth Month in 2000	Next Renewal of \$25.00 Due
January	\$25.00	January 1, 2000
February	\$27.08	February 1, 2000
March	\$29.16	March 1, 2000
April	\$31.24	April 1, 2000
May	\$33.32	May 1, 2000
June	\$35.40	June 1, 2000
July	\$37.48	July 1, 2000
August	\$39.56	August 1, 2000
September	\$41.64	September 1, 2000
October	\$43.72	October 1, 2000
November	\$45.80	November 1, 2000
December	\$47.88	December 1, 2000

Respiratory Therapists/Respiratory Therapy Technicians

With 1999 renewal notices each licensee will receive a statement for the existing fee of \$25.00 or \$17.00 for the year 1999, plus a prorated monthly fee of \$2.08 or \$1.42 respectively to the licensee's birth month, for every month beyond January 1, 2000:

Renewal Fees			
Respiratory Therapists		\$25.00	
Respiratory Therapy Technicians		\$17.00	
Birth Month	Renewal Fee for 1999 to Birth Month in 2000	Next Renewal Due	
January	\$25.00	\$17.00	January 1, 2000
February	\$27.08	\$18.42	February 1, 2000
March	\$29.16	\$19.84	March 1, 2000
April	\$31.24	\$21.26	April 1, 2000
May	\$33.32	\$22.68	May 1, 2000
June	\$35.40	\$24.10	June 1, 2000
July	\$37.48	\$25.52	July 1, 2000
August	\$39.56	\$26.94	August 1, 2000
September	\$41.64	\$28.36	September 1, 2000
October	\$43.72	\$29.78	October 1, 2000
November	\$45.80	\$31.20	November 1, 2000
December	\$47.88	\$32.62	December 1, 2000

Clinical Exercise Physiologists

With 1999 renewal notices each licensee will receive a statement for the existing fee of 25.00 for the year 1999, plus a prorated monthly fee of \$2.08 to the licensee's birth month, for every month beyond January 1, 2000:

Renewal Fees		
Clinical Exercise Physiologists		\$25.00
Birth Month	Renewal Fee for 1999 to Birth Month in 2000	Next Renewal of \$25.00 Due
January	\$25.00	January 1, 2000
February	\$27.08	February 1, 2000
March	\$29.16	March 1, 2000
April	\$31.24	April 1, 2000
May	\$33.32	May 1, 2000
June	\$35.40	June 1, 2000
July	\$37.48	July 1, 2000
August	\$39.56	August 1, 2000
September	\$41.64	September 1, 2000
October	\$43.72	October 1, 2000
November	\$45.80	November 1, 2000
December	\$47.88	December 1, 2000

Conclusion

Like any change, the rule amendments being proposed will, no doubt, be problematic during the first year of implementation. Such will not, however, result in any increase in fees, as the prorated amount assessed in 1999 will extend the licensee up to the first day of the licensee's birth month in the year 2000. The Board requests your indulgence, assistance and cooperation during the upcoming renewal period.