2017 Annual Report
Kentucky Board of Medical Licensure
Randal C. Gibson, D.O.
President

Board Background

While many people recognize the Kentucky Board of Medical Licensure as one of the most active and complex licensure boards in the Commonwealth, few realize the Board got its start as the Kentucky State Medical Society, which was officially incorporated by the Kentucky General Assembly in 1851. In follow-up to that move, the Kentucky State Board of Health was created in 1878 with the goal of protecting the citizens of the Commonwealth from the diseases of the time. This entity was recognized as the legal arm of the State Medical Association and was a precursor to the current Kentucky Board of Medical Licensure.

In the 1880s, the General Assembly went further and gave the State Board of Health control of the examination and regulation of those practicing the healing arts. Later, in 1882, state, local and city boards of health became government agencies with the authority from the General Assembly to do everything necessary to protect the public health. As a result, and over time, this led to the development of licensure examinations and hiring of staff to enforce basic medical practice laws. Finally, the General Assembly created the current Kentucky Board of Medical Licensure in 1972.

Since its inception, the primary mission of the Board has been to protect and promote the public welfare of the citizens of the Commonwealth. It is with this significant duty in mind that Board members are called upon to make crucial decisions whether physicians are competent to provide patient care or if they pose a threat to the public. Using this approach, the Board strives to license qualified medical and osteopathic physicians and take appropriate disciplinary actions when violations of the Medical Practice Act occur.
In addition to the licensing and regulation of medical and osteopathic physicians, the General Assembly has given the Board the responsibility of licensing and regulating other health care professions such as physician assistants, athletic trainers, acupuncturists, surgical assistants, and most recently genetic counselors. Each of these groups has its own advisory body, which reviews applications and considers policy matters and, in turn, makes recommendations to the Board for final approval.

Along with its role of licensing and investigating grievances against physicians and allied health professions, the Board is also a strong supporter of the Kentucky Physicians Health Foundation, which was established by the General Assembly. The Board contracts and provides funding to the Foundation in order to facilitate the prevention, identification, intervention and rehabilitation of Kentucky physicians who have, or who are at risk for developing, disorders that are associated with functional impairment or who are suffering from chemical dependency, mental health issues or behavioral problems. This valuable program has saved hundreds of medical careers over the years while ensuring that the public is protected through their monitoring activities.

The Board regulates the practice of medicine and osteopathy and its other professions under the statutory authority of Chapter 311 of the Kentucky Revised Statutes and Title 201 of the Kentucky Administrative Regulations. The Board is an independent licensure agency and is totally self-funded through licensure fees.

**Board Members**

The Board is presently made up of fifteen members, consisting of seven medical physicians who are in private practice, one osteopathic physician in private practice, three consumer-at-large representatives, the Deans of the state’s three medical/osteopathic schools and the Commissioner of Public Health for the Cabinet for Health and Family Services. The composition of the Board is slightly different when
compared to other state medical boards from the standpoint that the appointment of the Deans of the medical/osteopathic schools and the Commissioner of Public Health provides a unique perspective to matters under review by the Board.

2017 Members and Officers

- Randel C. Gibson, D.O., Mayfield, President
- C. William Briscoe, M.D., Corbin, Vice President
- Russell L. Travis, M.D., Lexington, Secretary
- Michael E. Fletcher, M.D., Crestview Hills
- Patrick R. Hughes, Esq., Crestview Hills (Consumer Member)
- Heidi M. Koenig, M.D., Louisville
- John J. McConnell, Murray, (Consumer Member)
- Kenneth J. Payne, M.D., Louisville
- Waqar A. Saleem, M.D., Louisville
- Dale E. Toney, M.D. Lexington
- Richard Whitehouse, Esq., Louisville
- Boyd R. Buser, D.O., Dean, University of Pikeville, College of Osteopathic Medicine*
- Toni M. Ganzel, M.D., Dean, University of Louisville School of Medicine*
- Robert S. DiPaola, M.D., Dean, University of Kentucky College of Medicine*
- Hiram C. Polk, Jr., M.D., Commissioner, Kentucky Department of Public Health*

*Ex-Officio Members

This year, the Board welcomed three new members to the Board with the appointment of Michael E. Fletcher, M.D. by Governor Matt Bevin. Dr. Fletcher practices Interventional Pain Management and Addiction Medicine in Crestview Hills and filled the vacancy left by Preston P. Nunnelley, M.D., whose term expired. The Board also welcomed the appointment of Kenneth J. Payne, M.D., who practices Obstetrics/Gynecology in Louisville and was appointed by Governor Bevin. Dr. Payne filled the vacancy left by Tamella B. Cassis, M.D., whose term expired. Finally, Governor Bevin appointed Richard Whitehouse, Esq., to the Board in the role as a
consumer member. Mr. Whitehouse is a healthcare executive in Louisville and filled the vacancy left by Thangam Rangaswamy, Ph.D., whose term also expired. The Board would like to take the opportunity to express its deepest appreciation to Dr. Nunnelley, Dr. Cassis and Dr. Rangaswamy for their many years of service to the citizens of the Commonwealth and for their dedication to the citizens of the Commonwealth and the licensees under the Board’s authority.

Board Activities

The full Board met on a quarterly basis and reviewed applications for medical and osteopathic licensure. In total, the Board considered 1,371 applications for various licenses to practice in the state. As a result, 1,120 new medical licenses were granted and 157 osteopathic licenses were issued. The Board also issued 798 temporary permits to practice in the state and issued 270 residency training licenses, 13 institutional training licenses, and 2 faculty licenses. The Board also certified 121 new physician assistants, bringing the total number of physician assistants to 1,295. One hundred twenty-four new athletic trainers were also certified by the Board, bringing the total number of certified athletic trainers in the state to 771. The Board certified 5 new surgical assistants, making a total of 208, and, finally, the Board licensed 6 new acupuncturists, which brings the total to 84 in Kentucky.

Along with the licensing and regulation of medical and osteopathic physicians and other health care providers under its jurisdiction, the Board is responsible for reviewing and investigating all grievances filed against these individuals. The Board reviews all types of grievances filed against physicians including matters involving professional misconduct, moral turpitude, ethical concerns and practice irregularities. Grievances come to the Board from various sources such as consumers, hospitals, government agencies, law enforcement, physicians, and other healthcare professionals. Once a grievance is reviewed and thoroughly investigated by one of the Board’s five investigators, it is presented to one of the Board Inquiry/Hearing Panels. For matters related to investigations and disciplinary action, the Board is split up into two different
groups, Inquiry/Hearing Panel A and Inquiry/Hearing Panel B. These Panels meet each month on an alternate basis in order to determine whether an investigation revealed a violation of the Medical Practice Act. In the event that a violation is found, it is referred to the Board’s Legal Department to be resolved through an informal process or an administrative hearing. Once that process is complete, it is presented to the alternate Inquiry/Hearing Panel for final resolution.

This year, the Board’s Inquiry/Hearing Panels met 12 times and reviewed 346 cases, which included 152 investigative reports. As a result of this review, formal disciplinary action was initiated against 104 physicians’ licenses. These actions resulted in one license being placed on probation, eight licenses being restricted, six being suspended, nine licenses being surrendered, seven licenses being revoked and 42 Agreed Orders being signed. The Board currently has 299 physicians’ licenses being monitored under some form of Order.

**Continuing Medical Education**

The Board is currently in the last year of the current three-year CME cycle. Due to this fact, the Board has issued numerous reminders to physicians about the state’s CME requirements. Continuing medical education is a valuable tool utilized by the Board to demonstrate a physician’s personal competency. According to 201 KAR 9:310, all physicians maintaining a current Kentucky medical/osteopathic license are required to complete sixty (60) hours of CME every three (3) year cycle, with thirty (30) hours being certified in AMA or AOA Category I by an organization accredited by the Accreditation Council on Continuing Medical Education (CME). The current CME cycle ends on **December 31, 2017**.

Along the same note, the Board would like remind all licensed physicians to ensure that they obtain the appropriate continuing medical education hours to maintain compliance with this regulation. It is important for physicians to remember the continuing medical education requirements related to HB 1, which went into effect in
2012, remain ongoing. According to the regulation, for each three (3) year continuing education cycle beginning on January 1, 2015, a licensee who is authorized to prescribe or dispense controlled substances in the Commonwealth at any time during that cycle shall complete at least four and one-half (4.5) hours of approved continuing education hours relating to the use of KASPER, pain management, addiction disorders, or a combination of two (2) or more of those subjects. A licensee may satisfy this requirement by completing a single approved program of 4.5 hours or longer or by completing multiple approved programs for a total of 4.5 hours or longer for that cycle. A summary of the Board’s CME requirements is available on at www.kbml.ky.gov.

Board Issues

As in years past, one of the major issues the Board has continually focused its attention on is its role in reducing prescription drug abuse in Kentucky. It truly understands that to effectively make a difference in Kentucky’s drug problem, it must continue with these collaborative efforts as they are making a positive difference in the lives of the citizens of the Commonwealth. Like other states, officials in Kentucky have recognized that the challenge of addressing prescription drug abuse requires a comprehensive and coordinated statewide strategy that restricts access to prescription drugs for illicit use but ensures access for those who legitimately need it.

A perfect example of this recognition can be seen HB 333, sponsored by Rep. Kim Moser, which was enacted by the 2017 Kentucky General Assembly and signed by Governor Bevin. This important piece of legislation, which is similar to the efforts in numerous other states, addressed a host of issues related to controlled substances ranging from penalties for trafficking fentanyl, carfentanil, and fentanyl derivatives to putting in place prescribing limits for acute pain for physicians and other practitioners. With regard to the acute prescribing limits, HB 333 amends KRS 218A.205 to require state licensure boards to promulgate regulations limiting prescriptions for Schedule II controlled substances for acute pain to a three-day supply with the following exceptions:
• The physician (practitioner), in his or her professional judgment believes that more than a three-day supply of a Schedule II controlled substance is medically necessary to treat the patient’s pain as an acute medical condition and the physician (practitioner) adequately documents the acute medical condition and lack of alternative treatment options which justifies deviation from the three-day supply limit in the patient’s medical records;

• The prescription for a Schedule II controlled substance is prescribed to treat chronic pain;

• The prescription for a Schedule II controlled substance is prescribed to treat pain with a valid cancer diagnosis;

• The prescription for a Schedule II controlled substance is prescribed to treat pain while the patient is receiving hospice or end-of-life treatment;

• The prescription for a Schedule II controlled substance is prescribed as part of a narcotic treatment program licensed by CFHS.

• The prescription for a Schedule II controlled substance is prescribed to treat pain following a major surgery or the treatment of a significant trauma, as defined by the state licensing board in consultation with the Kentucky Office of Drug Control Policy;

• The Schedule II controlled substance is dispensed or administered directly to an ultimate user in an inpatient setting; or

• Any additional treatment scenario deemed medically necessary by the state licensing board in consultation with the Kentucky Office of Drug Control Policy.

In response to the legislation, the Board recently filed an amendment to 201 KAR 9:260, which is the Board’s regulation for setting out the standards for prescribing and dispensing controlled substances in the Commonwealth. In addition to establishing the professional standard of a three-day prescribing limit on a Schedule II controlled substance for acute pain, the amendment also clarifies the professional standard for titration of controlled substances consistent with the 2016 Centers for Disease Control and Prevention Guideline for the Prescribing of Opioids for Chronic Pain. It is important to note the provisions of HB 333 do not apply to the use of opioids for the treatment of
chronic pain. The Board has been taking public comments on the regulation and hopes to have it finalized by October. Once the regulation is finalized and in effect, the Board will provide additional educational information to physicians about the new provisions in the law.

Overall, the Board has noted a significant change in the way physicians are addressing the treatment of pain for their patients. With the development and publishing of the Centers for Disease Control's (CDC) Guideline for Prescribing Opioids for Chronic Pain in March of 2016, physicians around the country are discussing and reassessing how they treat chronic pain. In addition, the Board noted and shared information with its licensees regarding the Food and Drug Administration's announcement of a black boxed warning on the combination of opioids and benzodiazepines. According to the FDA, it is now requiring class-wide changes to drug labeling, including patient information, to help inform health care providers and patients of the serious risks associated with this dangerous drug combination. The Board feels these combined efforts, along with the initial implementation of the changes made in the 2012 General Assembly's HB 1 and subsequent Board regulations, have sparked conversations and improvement in the ways physicians prescribe controlled substances and treat patients with chronic pain.

In addition to 201 KAR 9:260, it is important to note the Board also became one of the first state medical boards in the nation to address the overprescribing and diversion of Buprenorphine in its adoption of a regulation, 201 KAR 9:270, which focuses on the professional standards for prescribing or dispensing Buprenorphine-Mono-Product. This regulation, which had the input from medical experts throughout the Commonwealth, went into effect in 2015. As with any of the Board’s regulations setting out the professional standards of practice in Kentucky, the Board reviews it’s regulations on a regular basis in order determine whether modifications need to be made. One such modification occurred in 2017 as the Board further refined 201KAR 9:270 after consultation with experts, and the changes are now in the effect.
Another major development this year in the battle against prescription drug abuse came when Gabapentin was made to be a Schedule V controlled substance in Kentucky. The action was completed by the Cabinet for Health and Family Services' Office of Drug Enforcement and Professional Practices Branch who amended 902 KAR 55.035 to add Gabapentin as a Schedule V controlled substance. This move was in response to widespread concerns that Gabapentin was being diverted and abused throughout the Commonwealth. The Board was aware of such reports and was in support of this move. It is important to note that while 201 KAR 9:260 excludes Schedule V controlled substances from the standards outlined within it, the Board encourages the incorporation of the use of KASPER into the prescribing of any controlled substance.

While it is noted that overall prescribing of controlled substances has improved, as noted by a recent CDC study, which highlights the changes of opioid prescribing in the United States from 2010 through 2015, the Board still considers allegations of inappropriate prescribing to be very serious and continues to take appropriate disciplinary action when violations occur. At the heart of the Board's effort to combat this issue is the Board's concerted effort to collaborate with law enforcement agencies such as the Office of the Attorney General, the Kentucky State Police, the Cabinet for Health and Family Services' Office of Inspector General and various other Federal and local agencies. Board staff and its investigators regularly meet with these groups to discuss individual cases and ways that our agencies can work together to protect the public. The Board also is an active participant on the Governor's KASPER Advisory Council, which provides advice, guidance and recommendations to the agencies charged with responsibility under KRS 218A to monitor the prescribing and dispensing of controlled substances.

Like many state agencies throughout the Commonwealth, the Board is continually looking to streamline its services and alleviate any undue burden in order to obtain or maintain a medical/osteopathic license. One of the issues the Board has continued to study connected with this issue is the Interstate Compact for Physicians.
The Compact was created by a collective group headed by the Federation of State Medical Boards to develop an expedited licensure procedure to assist in cutting through the administrative burden of medical licensure and make it much simpler for physicians to obtain licensure in multiple states. To date, 22 states have signed onto the Compact; however, implementation is still in the development phase. At this time, the Board supports the concept of the Compact; however, it has not voted to proceed forward in pursuing the matter. In order to do so, it would require a statutory change to the Medical Practice Act. As the Board goes forward looking for ways to alleviate administrative burdens for physicians and streamline its processes, it will continue to study the Compact as its implementation continues and the Board’s questions regarding the fiscal impact are resolved. In addition to studying the Compact, the Board has been involved with a pilot project with the Federation of State Medical Boards in order to streamline a physician applicant’s ability to query and obtain a required report from the National Practitioner Data Bank as part of the FSMB’s core verification services, which is required in Kentucky.

Legislation

In addition to the legislation previously highlighted in this report, the members of the Kentucky General Assembly addressed several pieces of legislation that involved the Board and the practice of medicine during the proceedings of the 2017 legislative session. One of the bills, SB 146, sponsored by Sen. Julie Raque Adams, was enacted by the General Assembly signed by Governor Bevin. This legislation created a section of KRS Chapter 11 to establish and administer the licensure of genetic counselors under the Board, similar to other allied health professions housed within the Board. In response, the Board has already appointed an advisory committee and is taking steps to be prepared to license genetic counselor applicants beginning in January of 2018.

The 2017 General Assembly also approved two pieces of legislation involving abortion services. The first, HB 2, sponsored by House Speaker Jeff Hoover, the Ultrasound Informed Consent Act, was passed by the legislature and signed by
Governor Bevin and requires an ultrasound before a patient can have an abortion. In addition, the General Assembly also approved SB 5, sponsored by Sen. Brandon Smith, which created a new section of KRS Chapter 311 to prohibit an abortion when the probable post-fertilization age of an unborn child is 20 weeks or greater. This legislation was also signed by Governor Bevin, and the Board communicated these actions to its licensees.

Physicians may also be interested in two other pieces of legislation, which will make additional patient information available through the access of the state’s KASPER system. The first piece of legislation, SB 32, filed by Sen. Danny Carroll, requires the Administrative Office of the Courts to forward drug conviction data to the Cabinet for Health and Family Services (CHFS) for inclusion in KASPER. As a result, CHFS will incorporate the data into the system so that a query by patient name indicates any prior drug conviction. The second piece of legislation that may be of interest is HB 314, sponsored by Rep. Danny Bently. HB 314 amends KRS 218A.202 to require hospitals to report positive toxicology screens that were performed by the hospital emergency department to evaluate the patient’s suspected drug overdose. It will also allow practitioners or pharmacists to review KASPER reports of birth mothers of potentially drug-exposed infants and contains additional reporting requirements for hospitals for controlled substances dispensed to patients in the emergency department. Once CHFS has completed the implementation of these changes, the Board will notify physicians of any updated information or available training opportunities.

Outreach Efforts

Over the past few years, the Board has focused its attention on the communication between the agency and its licensees. While the Board does still utilize formal ways of communicating with physicians such as hard copy mailings, it focuses much of its communication efforts through electronic means. The primary medium the Board utilizes for communication continues to be its quarterly Newsletter, which is available on the Board’s website and emailed to each of the Board’s licensees. This
year, the Board's Newsletter contained numerous articles about prescribing controlled substances and timely notices about CME and issues relating to various standards of care. Along with our Newsletter, the Board continues to utilize email blasts to share important updates on regulatory changes and on issues deemed to be time sensitive. It is not uncommon for another state agency such as the Department of Public Health to contact the Board in order to share a specific message with the physician community. In the age of high speed and wireless communications, these efforts along with posting information on the Board's website continue to be the most efficient way of communicating with our fast-paced medical community.

The Board's website, www.kbml.ky.gov, continues to provide valuable information about the Board, policy statements, Board Opinions and a direct link to the Medical Practice Act and administrative regulations. The website is updated on a daily basis with a focus on alerts, which appear directly on the home page with important updates. In addition to physicians and healthcare providers, consumers often utilize the website to verify licensure information on a specific physician or inquire about disciplinary action.

Along with the Board's traditional mode of communication, Board staff regularly accepts speaking engagements throughout the Commonwealth to speak on subjects ranging from prescribing controlled substances to ways to avoid coming before the Board for a disciplinary matter. A perfect example of this activity has been our ongoing partnership with the Office of Drug Control Policy in conducting trainings on responsible opioid prescribing. Whether the event is an association meeting, hospital grand rounds, or appearing before medical/osteopathic students, the Board recognizes the importance of its outreach efforts and attempts to honor all requests for speaking engagements.

Final Summary

This is a brief summary of some of the many activities this Board has been involved with this past year. The Board continues to be active in carrying out its
statutory responsibilities. Attached is an administrative report reflecting the number of meetings held by the Board and its various Committees, the number of licenses issued and renewed and a summary of disciplinary actions taken during the year. We have also included statistical data on physicians with active Kentucky medical and osteopathic licenses noting their medical status, the number of physicians practicing in each county, the various specialties practiced in the state and the types and sources of grievances filed against physicians licensed by the Board.

In conclusion, I would like to thank the members of the Board and its staff for their dedication and hard work throughout the year. Serving on the Board is a true honor and one that I know that each member of the Board holds in the highest regard. We take great pride in the Board’s ability to serve the citizens of the Commonwealth and will continue to work to protect the public and improve the quality of health care in Kentucky.
Meetings Held: FY2017
Board of Medical Licensure 4
Inquiry/Hearing Panels 12
Physician Assistant Advisory Committee 4
State Council on Athletic Trainers 4
Surgical Assistant Advisory Committee 3
Acupuncture Advisory Committee 3

Licensure Activity for M.D.’s and D.O.’s
Renewals and Applications:
Registered In State *11,618
Registered Out of State 6,106
Applications Provided For Initial Licensure 1,371

New Licenses Issued:
Medical Licenses 1,120
Osteopathic Licenses 157
Temporary Permits 798
Residency Training Licenses 270
Institutional Practice Limited Licenses 13
Fellowship Training Limited Licenses 11
Faculty Licenses 2

Licensure/Certification Activities for Allied Health Professionals
Physician Assistants
Active 1,295
New 121

Athletic Trainers
Active 771
New 124

Surgical Assistants
Active 208
New 5

Acupuncturists
Active 34
New 6

*Includes 643 retired physicians for FY2017.
Disposition of Grievances and Disciplinary Actions Taken:
- Grievances Opened: 198
- Total Cases to Panel: 346
- Cases Investigated to Panel: 133
- Investigations Pending: 80
- Malpractice Cases Reviewed: 73
- Disciplinary Proceedings Authorized: 104

Disciplinary Action Taken
- Complaints Issued: 22
- Emergency Orders of Suspension: 6
- Emergency Orders of Restriction: 5
- Orders Denying License: 2
- Orders of Probation: 0
- Orders of Restriction: 3
- Orders of Revocation: 7
- Orders of Suspension: 0
- Agreed Orders: 42
- Agreed Orders of Indefinite Restriction: 0
- Agreed Orders of Surrender: 9
- Agreed Orders of Probation: 1
- Agreed Orders of Revocation: 0
- Agreed Orders of Suspension: 0
- Agreed Orders of Fine: 7
- Agreed Orders of Retirement: 0
- Interim Agreed Orders: 7
- Orders Amended: 38
- Letters of Agreement: 9
- Letters of Admonishment: 25
- Letters of Concern: 16
Type of Grievance
July 1, 2016 - June 30, 2017
198 Grievances

- Unprofessional Conduct: 24%
- Prescribing: 18%
- Other: 2%
- Standard of Care: 36%
- Hospital Action: 1%
- Renewal: 4%
- Action In Another State: 3%
- Fraud: 0%
- Application: 1%
- Substance Abuse: 5%
- Malpractice: 0%
- Mental Impairment: 1%
- Non-Disclosure: 1%
- Court/Legal Action: 3%
- Sexual Misconduct: 1%
- Prescribing: 18%
Source of Grievance
July 1, 2016 - June 30, 2017
198 Grievances

- State/Federal Agencies: 14%
- KBML Board/Panel: 5%
- Self Reported: 2%
- KPHF: 3%
- Physician: 5%
- Public: 58%
- License Renewal: 4%
- Other Licensing Boards: 4%
- Hospitals: 2%
- Inmates: 2%
- Other: 1%
- Physicians: 5%