

Rhode Island Board of Medical Licensure and Discipline 2019 Annual Report

JANUARY 2020



Introduction

Licensing Boards serve an important and often unrecognized service as they quietly protect the public. Assurance of a competent workforce is one the 10 essential public health services recognized by the Centers for Disease Control and Prevention (CDC)ⁱ. Board members possess unique technical expertise and function within a Just Culture as they exercise this duty. Complex issues that surround complaint investigations, health policy, establishment of rules and regulations, and issuance of licenses are some examples of these important duties.

The mission of the Board of Medical Licensure and Discipline (BMLD) is to protect the public through enforcement of standards for medical licensure and ongoing clinical competence. The BMLD has six members who represent the public, and seven members who are physicians. BMLD members receive no compensation of any type for their hundreds of hours of service annually.

BMLD Members	
Nicole Alexander-Scott, MD, MPH	Director, Rhode Island Department of Health, Chair
Jennifer Barry, Esq.	Public member, plaintiff attorney
Sajeev Handa, MD*	Physician (Allopathic)
Alexios Carayannopoulos, DO	Physician (Osteopathic)
Sandra Coletta*	Public member
Crista Durand*	Public member, hospital administrator
Catherine DeGood, DO	Physician (Osteopathic)
Joseph Dowling, MD	Physician (Allopathic)
Nancy Kirsch*	Public member
Leonard Green	Public member
David Kroessler, MD	Physician (Allopathic)
James Monti, MD	Physician (Allopathic, full-time faculty)
Patricia Delaney*	Public member

The BMLD extends its thanks to outgoing Board members Steven Blazar, MD; Helen Drew; and Joan Crawley.

The BMLD welcomed new members* Patricia Delaney, Crista Durand, Nancy Kirsch, and Dr. Sajeev Handa.

The BMLD meets the second Wednesday of each month at the Rhode Island Department of Health (RIDOH) in Providence, and the open session of each meeting begins at 8:30 a.m. Any member of the public can attend the open session.

The BMLD is housed entirely within RIDOH and is staffed by RIDOH employees who divide their time to effectively ensure the BMLD has the resources it needs to function at the highest level.

BMLD Staff	
James V. McDonald, MD, MPH	Chief Administrative Officer
Morgan Goulet, Esq.	Senior Legal Counsel
Lauren Dixon-Lasso	Board Manager
Linda Julian	Board Investigator
Angela Phengsavatdy	Licensing Officer

Licensing

Licensing of physicians, by examination or by endorsement, represents one of the essential functions of the BMLD. Ensuring that physicians who are allowed to practice medicine in Rhode Island are competent, ethical, and professional is critical to the licensing process. During 2019, there was a slight decrease in the total number of new licenses issued, while the average time to issue a license was 26 days. Regarding new allopathic physician (MD) licenses issued, there was an increase in 2019, compared to 2018 when there was a concomitant increase in new licenses for osteopathic physicians (DO).

Physician Licensing					
	2015	2016	2017	2018	2019
Physician licenses issued	377	478	430	476	474
Physician license applications withdrawn	0	3	3	5	1
Physician license applications denied	0	0	0	0	0
Average number of days to receive physician license	29.5	25	31	25	26
Percentage of licenses approved in less than three days after receipt of final documents	95	99	97	93	99

Physician Licenses, By Type					
	As of 12/31/2015	As of 12/31/2016	As of 12/31/2017	As of 12/31/2018	As of 12/31/2019
Allopathic physicians	4,836	4,616	5,024	4,710	5,149
Osteopathic physicians	335	316	365	340	418
Temporary Post Graduate license ⁴	N/A	N/A	N/A	16	13
Academic faculty, limited license ³	4	4	4	3	3
Volunteer license ²	2	15	15	16	17
Total Physicians with a Full License	5,177	4,951	5,408	5,085	5,598
Physicians (MD and DO) with a Controlled Substance Registration	4,303	3,324	4,238	3,934	4,242
Limited license (Training) ¹	781	808	843	829	881

¹ Limited License: a physician, in accordance with regulation 1.3.4; in an approved accredited graduate medical education program 216-RICR-40-05-1 <http://sos.ri.gov/documents/archives/regdocs/released/pdf/DOH/8700.pdf>

² Volunteer License: a physician, in accordance with regulation 1.4.5; retired; receives no financial compensation; practices at a 501(c)(3) and has proof of malpractice coverage 216-RICR-40-05-1 <http://sos.ri.gov/documents/archives/regdocs/released/pdf/DOH/8700.pdf>

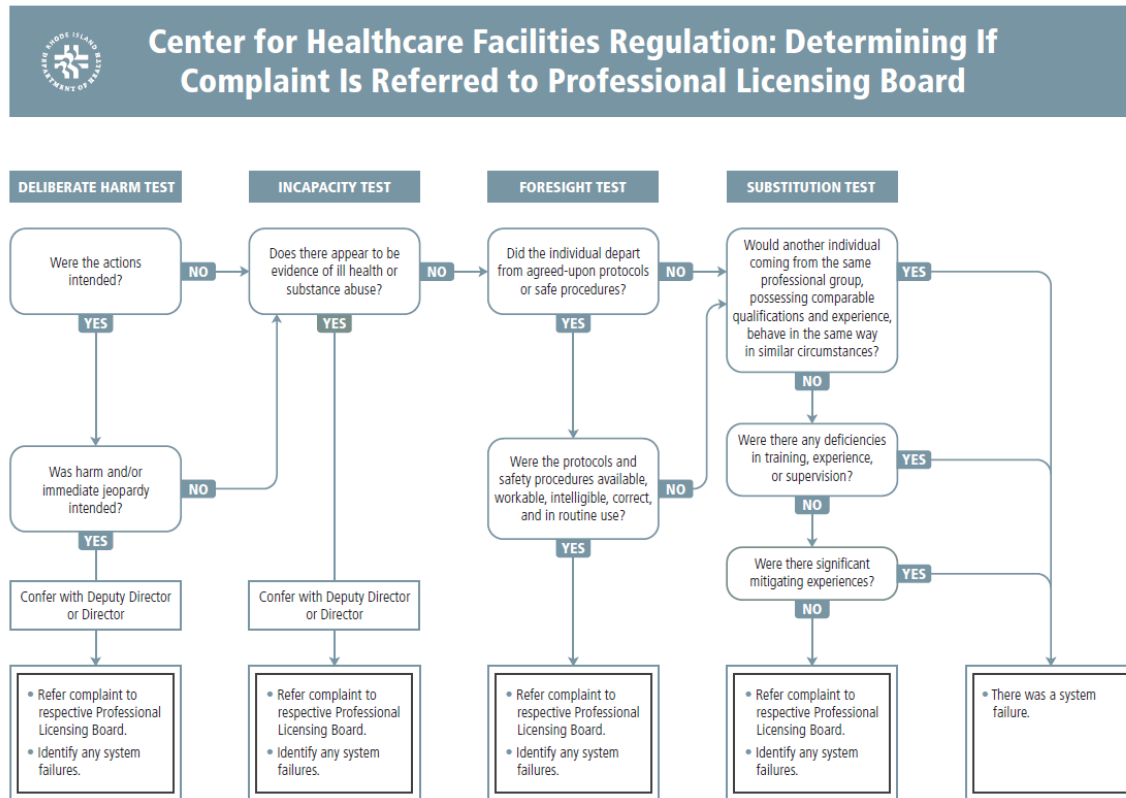
³ Academic Faculty License: a physician, in accordance with regulation 1.4.6; physician of noteworthy and recognized professional attainment who is clearly an outstanding physician and who has been offered a full time academic appointment by the dean of an accredited medical school in Rhode Island. 216-RICR-40-05-1 <http://sos.ri.gov/documents/archives/regdocs/released/pdf/DOH/8700.pdf>

⁴ Temporary Post Graduate License: a physician, in accordance with regulation 1.4.4; new in 2018. 216-RICR-40-05-1 <http://sos.ri.gov/documents/archives/regdocs/released/pdf/DOH/8700.pdf>

Just Culture

Health equity and justice extends to all areas of RIDOH, so codifying Just Culture was a natural extension of this leadership vision that was accomplished in 2019. In the open session of the September 2019 meeting, the Board adopted a framework of decision-making regarding complaints at various stages in the complaint process.

The figure below illustrates how a complaint that originates with the Center for Healthcare Facilities Regulation would be reviewed, and ultimately, if it would be referred to the BMLD. This framework was based on input at several open meetings with the Board as well as previously published workⁱⁱ.



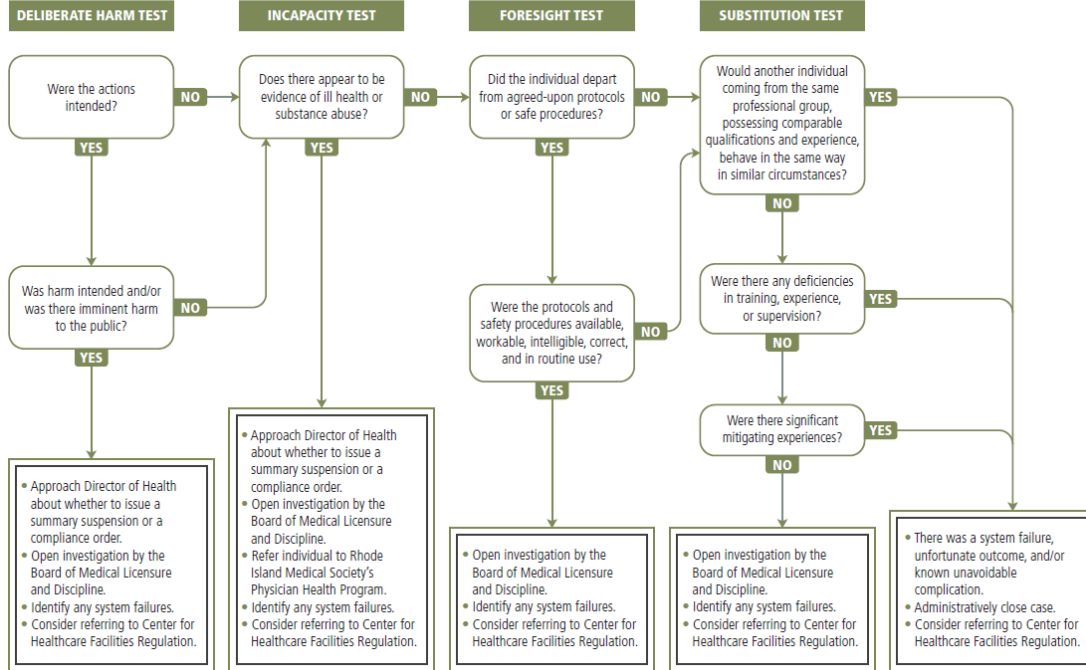
In September 2012, the Board approved delegation of opening complaints to RIDOH staff, and in 2019, the Board codified this approach in the framework illustrated below.

When a complaint is filed there is usually a desire, on the part of the complainant, to assign blame. The Board investigates complaints and strives to achieve consistent and just outcomes for all parties involved. If an investigation is opened, the Board needs to determine if a physician must be held accountable or if the error/issue was more likely caused by systems issues beyond the control of the physician. Utilizing the *Deliberate Harm Test*, *Incapacity Test*, *Foresight Test*, and *Substitution Test* help the Board arrive at consistent decisions which protect the public and hold physicians accountable.

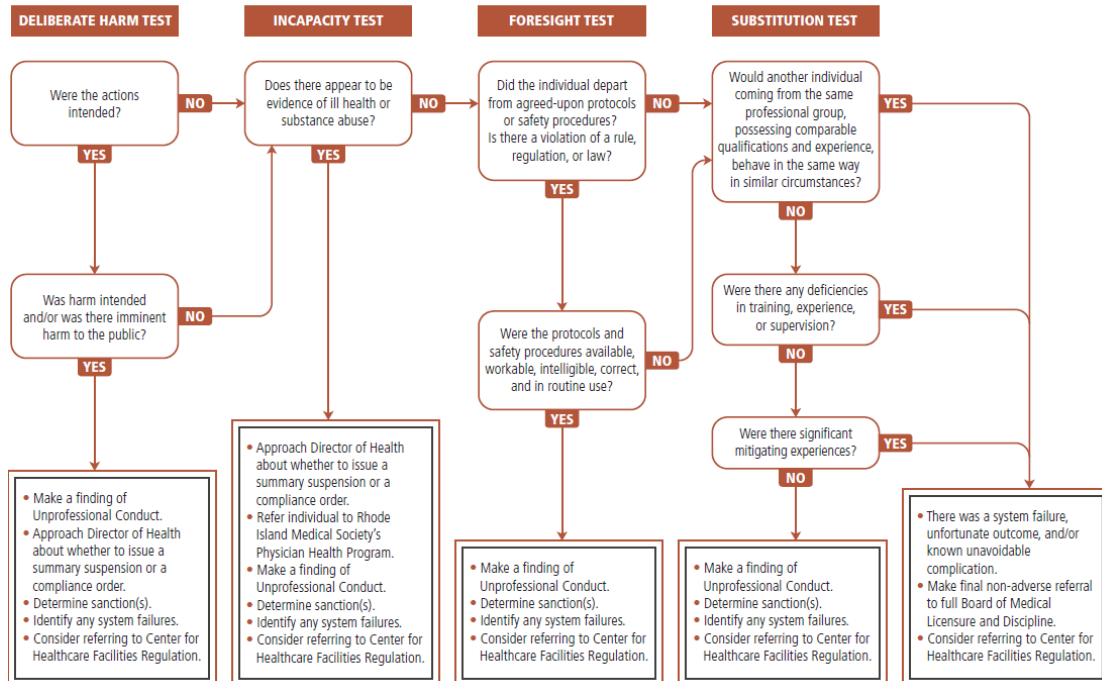
The Board utilizes the *Deliberate Harm Test*, *Incapacity Test*, *Foresight Test*, and *Substitution Test* to evaluate each new complaint regardless of origin. These tests are based on lessons learned from other industries that evaluate errors and mistakes in the context of a safe and just culture.ⁱⁱⁱ



Board of Medical Licensure and Discipline (BMLD) Team Review: Determining if BMLD Initiates an Investigation



Determining an Outcome of an Investigation of the Board of Medical Licensure and Discipline



Policy Statements

The BMLD approves policy statements about important or emergent public health issues when it believes a knowledge gap exists in the physician population. There were no new policy statements approved in 2019. Existing policy statements are available at <http://health.ri.gov/licenses/detail.php?id=200> The BMLD has refrained from issuing new policy statements since 2017 and instead, incorporates important changes into rules and regulations.

Rules and Regulations for Licensure and Discipline of Physicians

There were no changes to the *Rules and Regulations*^{iv} for the Licensure and Discipline of Physicians 216-RICR-40-05-1 in 2019.

Continuing Medical Education (CME) Activities

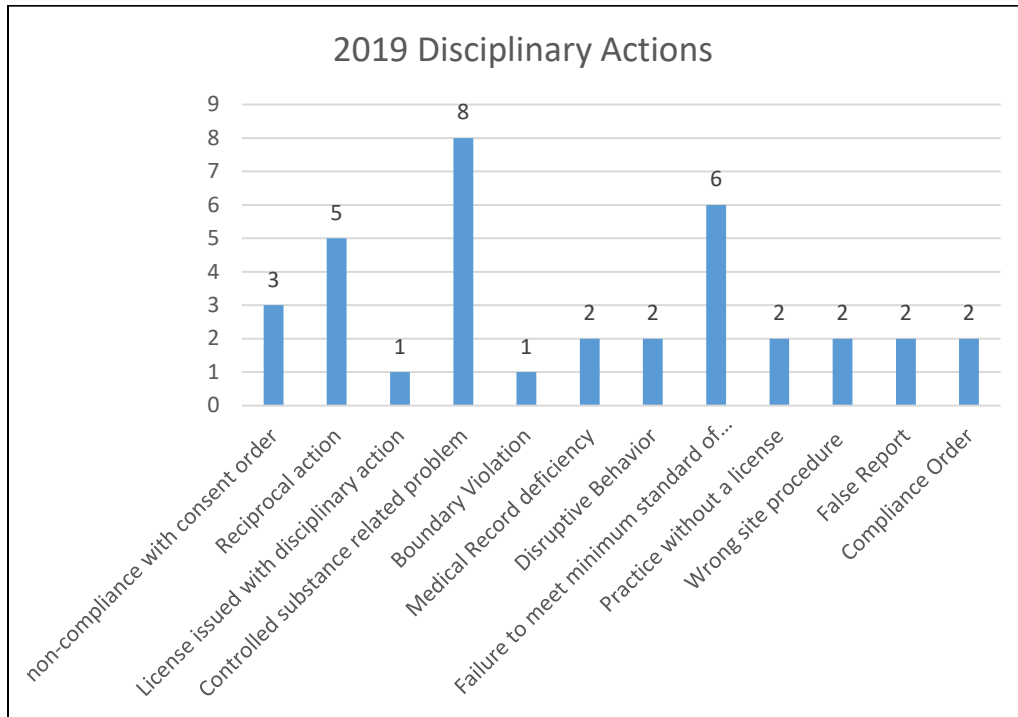
The BMLD, in conjunction with RIDOH, sponsored several CME events in 2019 at various hospitals, physician group practices, educational facilities, and professional society meetings that specifically addressed the opioid crisis, responsible prescribing, and appropriate treatment of pain. The program, *Practical Solutions to Prescribing Medication Assisted Treatment* (<https://cme-learning.brown.edu/MAT19>) was offered at Brown's Alpert School of Medicine in September and is now available for CME online. The BMLD and RIDOH continue to go to extraordinary lengths to educate physicians on the importance of understanding addiction and its treatment, appropriate treatment of pain, and responsible prescribing of controlled substances.

Complaints and Disciplinary Actions

An essential role of the BMLD is to investigate and adjudicate complaints. The BMLD continues to be the Board at RIDOH with the highest volume of cases. Complaints come from a variety of sources, including patients, patient advocates, notices of litigation, licensed facilities, pharmacists, physicians, and other healthcare professionals. Each complaint is reviewed prior to being opened for complete investigation. The complaint process for physicians is detailed in a flow chart at <http://health.ri.gov/complaints/physician/>.

Summary of Annual Complaint Activity					
	2015	2016	2017	2018	2019
Complaints received	422	514	320	597	544
Complaints opened for investigation	200	168	122	256	243
Complaints adjudicated by full Board	211	200	137	169	171
Suspensions	1	0	3	7	5
Voluntary agreements not to practice medicine/surrender of license	4	7	1	3	4
License reinstatements/ activations with disciplinary actions	7	4	3	1	3
Reprimands and related sanctions	20	18	19	27	24
Revocations	0	1	0	0	0
Public adverse actions	32	30	26	38	36

An illustration of the types of public disciplinary actions for 2019 are illustrated in the table below:



In 2019, the issue most frequently cited in physician disciplinary actions was controlled substance-related issues. This is consistent with prior years; however, the number of disciplinary actions in this area are decreasing and reflect the BMLD’s continued concern and vigilance regarding appropriate prescribing of controlled substances, specifically, prescription opioids. The next most common issue cited in disciplinary actions was failure to meet the minimum standard of care, followed by reciprocal actions from other jurisdictions. The aggregate total of public disciplinary actions in 2019 was 36 public actions that involved 32 physicians.

Publications

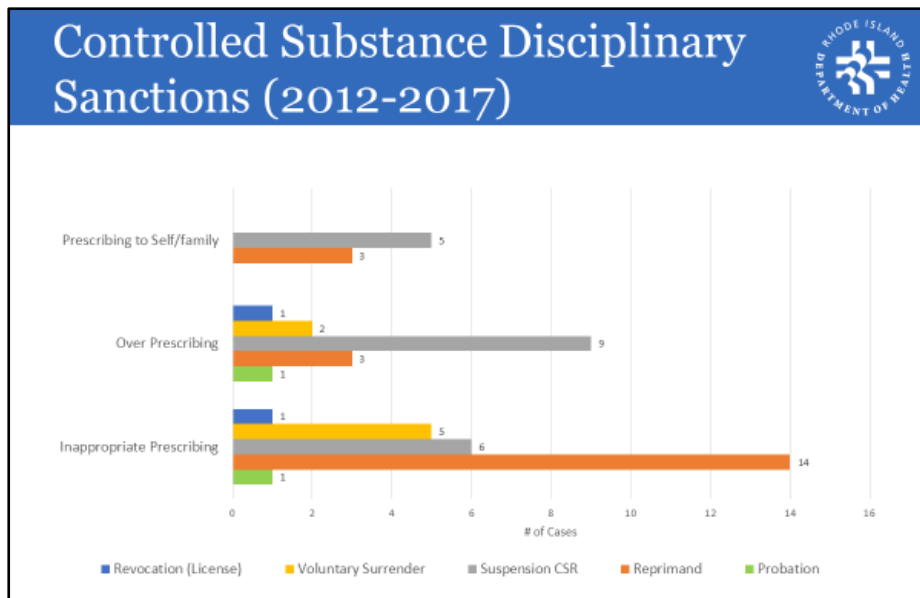
There were three publications in peer-reviewed journals that were authored by BMLD staff and were relevant to the Board in 2019.

In March 2019, RIDOH Public Health Scholar Dr. Bianco Melo, BMLD staff member Linda Julian, and Dr. James McDonald presented their findings of a review of complaints regarding boundary violations.^v One of the main findings in this study, available at <https://www.ncbi.nlm.nih.gov/pubmed/30823699>, revealed that boundary violations were more common with psychiatrists, and when a physician had sexual intercourse with a patient, loss of license was common.

In April 2019, RIDOH Public Health Scholars Dr. Luke Barre and Justin Gallo and Dr. James McDonald presented their findings regarding a review of disciplinary actions regarding controlled substances in Rhode Island from 2012 to 2017.^{vi} One of the main findings in this study, available at <https://jmronline.org/doi/full/10.30770/2572-1852-105.1.22>, revealed that although disciplinary actions were uncommon, disciplinary actions involving controlled substances were much more common in men (100%) and

in older physicians (average age of 63) and involved over-prescribing, inappropriate prescribing, or self-prescribing of controlled substances.

In August 2019, RIDOH Public Health Scholar Dr. Luke Barre; RIDOH staff Dr. Alexander-Scott, Megan McCormick, Rachael Elmaleh, and Dr. James McDonald; and Dartmouth colleague B. Oliver presented their findings on the impact of State regulations on initial opioid prescribing behavior in Rhode Island.^{vii} This study evaluated the efficacy of prescribing regulations in altering prescribing behavior, specifically regarding the initial prescription of opioids. Using data extracted from the Rhode Island Prescription Drug Monitoring Program (PDMP), before and after the publication of updated acute pain management regulations, the rate of opioid prescribing was studied using statistical process control (SPC) charts and found that the rate of prescribing unsafe doses of opioids, more than 30 morphine milligram equivalents (MMEs) per day or more than 20 doses to opioid-naïve patients, decreased significantly.



Review of Boundary Violations in Rhode Island 2012-2018

Bianca Melo DO, MPH, Linda Julian BA, James McDonald MD, MPH
Board of Medical Licensure and Discipline

Introduction

"Into whatever homes I go, I will enter them for the benefit of the sick, avoiding any voluntary act of impropriety or corruption, including the seduction of women or men, whether they are free men or slaves"
- Hippocrates

The mission of the Rhode Island Board of Medical Licensure and Discipline is to protect the public and ensure professional practice standards. Periodically, the board receives complaints alleging an improper relationship between a physician and the patient.

As physicians, we hold a unique position in our culture. We are afforded certain privileges, with the most paramount of privileges is to evaluate and manage patients. The physician-patient relationship is built and maintained on trust. As part of this trust, there are certain obligations including adhering to professional boundaries. This is required to maintain a therapeutic relationship that promotes healingⁱ.

Boundary violations, specifically when a physician engages in a sexual relationship, are specifically prohibited by Rhode Island lawⁱⁱ.

Methods

- All disciplinary actions involving Rhode Island licensed physicians from 2012 through 2018 were reviewed.
- All disciplinary actions were categorized by: type of boundary violation, gender, specialty, disciplinary action, and disciplinary outcomes.

Results

- Most common specialty with boundary violations was Psychiatry, 31.3.
- In our review, 94% of boundary violations involved matters related to sexual misconduct.
- 87% of sexual misconduct violations were completed by men.
- Of the physicians who had loss of license, 36% were able to successful in having their license reinstated.

Discussion

- Physician-patient relationships established when the physician affirmatively acts in the patient's case and examines, diagnoses, treats or agrees to commence any of these activitiesⁱⁱⁱ.
- Boundary violations, particularly those involving sexual misconduct, represent some of the most serious allegations and threat to the general public.
- Reasons for sexual misconduct include, but not limited to: physician impairment, undiagnosed psychopathology, and character flaws.
- The American Psychiatric Association indicates that it is never acceptable for a psychiatrist to engage in a romantic relationship with a former patient^{iv}.
- The Board of Medical Licensure and Discipline of Rhode Island adopted a similar position to the American Psychiatric Association, promulgating a regulation to this effect in October 2018.
- Physicians who find themselves in a romantic relationship with a patient should terminate the physician-patient relationship immediately and arrange a responsible transition of care for the patient.
- Physicians are also advised to self-report to the Rhode Island Medical Society Physicians Health program for an evaluation.

References

ⁱ Don Doble, S and M Lipton. "The doctor-patient relationship: challenges, opportunities, and strategies." *Journal of general internal medicine*. vol. 14 Suppl 1, Sept 1 (1999): S20-S3.

ⁱⁱ Physician-Patient Relationship - Chicago Movement Geography. <https://www.washington.edu/bohrer/bohrer/physpt.html>

ⁱⁱⁱ TITLE Business and Professions 115-12-1, subsection (b)(1), state of Rhode Island TITLE 115-12-1-1 HTML in State, Website. "When Is a Patient-Physician Relationship Established?" *Journal of Ethics | American Medical Association, American Medical Association*. 1 May 2012. <http://journalofethics.ama-assn.org/article/when-patient-physician-relationship-is-established/201205/>

^v American Psychiatric Association, APA Commentary on Ethics in Psychiatry, 2015. *Therapeutic Boundary Keeping* 3.2.0

Revenue

Revenue generated from licensing and registration fees is sent to the General Treasurer of the State of Rhode Island General, and BMLD operations are funded by RIDOH. License fees account for the vast majority of revenue for the State as reflected in the table below. Physician licenses are renewed by June 30, of even years; therefore, revenue varies significantly between renewal cycles. Revenue is also generated by fees paid to renew Controlled Substance Registrations (CSR). There is a fee for verification of a Rhode Island physician license which is administered via veridoc.org, which sends real-time license verification to state medical boards as requested. RIDOH offers primary source verification at no charge, at http://209.222.157.144/RIDOH_Verification/Search.aspx?facility=N&SubmitComplaint=Y. The BMLD is not authorized to issue fines for disciplinary actions and is one of only a few states in the country that lack this authority. The BMLD does have the authority to issue administrative fees which reflect the actual costs associated with investigating a complaint.

Annual Revenue from Physician-Related Fees					
	2015	2016	2017	2018	2019*
License Fees (MD/DO)¹	\$542,209	\$5,417,610	\$581,935	\$ 5,566,053	\$601,884
CSR Fees²	\$70,600	\$796,550	\$77,770	\$790,400	\$73,200
License Verification Fees³	\$108,849	\$146,155	\$146,800	\$165,515	\$166,700
Administrative Fees from Disciplinary Actions⁴	\$33,829	\$17,900	\$23,055	\$37,938	\$29,744
Limited License Application Fees⁵	\$59,405	\$59,115	\$58,275	\$57,275	\$61,225
Limited License CSR Fees⁶	\$80,100	\$83,100	\$84,700	\$86,100	\$88,900
Physician Hospital Beds Licensing Fees⁷	\$180,800	\$136,840	\$197,860	\$186,662	\$150,856
Total Annual Fees	\$1,075,792	\$6,657,270	\$1,170,395.50	\$6,889,943.50	\$1,172,509.96

¹ Source: L2K – Revenue Reports – Physicians – Allopathic Physician [MD], Osteopathic Physician [DO].

² Source: L2K – Revenue Reports – Physicians – CSR Allopathic Physician [MD], CSR Osteopathic Physician [DO].

³ Source: RIFANS – Account Numbers 10.075.2201958.01.422000.00000 (2015-2016); 10.075.2136993.01.422000.00000 (2016-2019).

⁴ Source: BMLD Program Records.

⁵ Source: L2K – Revenue Reports – Physicians – Academic Faculty [Limited], Limited Physician, Medical Officer [Limited] (2015-2016 only), Intern [Limited] (2015 only), Fellow [Limited] (2016 only), Limited Physician-Alternate Jurisdiction (2017 only), Temp Post Grad Allopathic Physician (2019 only).

⁶ Source: L2K – Revenue Reports – Physicians – CSR-Limited Physician, CSR-Academic Faculty [Limited], CSR Limited Physician-AJ (2017 only), CSRX-Temp Post Grad Allopathic Physician (2018-2019), CSRX-Temp Post Grad Osteopathic Physician (2018-2019).

⁷ Source: L2K – Revenue Reports – Physicians – Physician Hospital Beds.

Conclusion

The BMLD made significant accomplishments in 2019, highlighted by codifying Just Culture and publishing its framework for decision making regarding compliant investigations. This reflects transparency, justice, equity, and consistency with RIDOH's organizational values.

2019 also resulted in several publications in peer-reviewed medical journals that show the Board's desire to add to the knowledge base of public health. The Board looks forward to exciting projects in 2020 that will include Just Culture and a review of loss-of-license cases in the last decade.

The BMLD does anticipate updating rules or regulations in 2020 and will be seeking stakeholder and public input soon.

The BMLD is composed of highly respected, wise, and committed volunteers who give of themselves and their time to carry out its critical mission. The BMLD is vigilant and consistent in its mission to protect the public and does so in the spirit of equity and justice.

ⁱ "CDC - Public Health System and the 10 Essential Public Health Services - OSTLTS." *Centers for Disease Control and Prevention*, Centers for Disease Control and Prevention, 26 June 2018, <https://www.cdc.gov/publichealthgateway/publichealthservices/essentialhealthservices.html>.

ⁱⁱ Reason, James, and Alan Hobbs. *Managing Maintenance Error*. Ashgate, 2003

ⁱⁱⁱ Reason, James, and Alan Hobbs. *Managing Maintenance Error*. Ashgate, 2003

^{iv} Rules and Regulations for Licensure and Discipline of Physicians 216-RICR-40-05-1 <https://rules.sos.ri.gov/regulations/part/216-40-05-1>

^v Melo, Bianca, Julian, Linda, McDonald, James V. M.D., M.P.H.. "Review of Boundary Violations in Rhode Island, 2012-2018." *Rhode Island Medical Journal* (2013), U.S. National Library of Medicine, 1 Mar. 2019, <https://www.ncbi.nlm.nih.gov/pubmed/30823699>.

^{vi} Luke Barre, Justin Gallo, and James V. McDonald (2019) Review of Disciplinary Actions Regarding Controlled Substances, Rhode Island 2012–2017. *Journal of Medical Regulation*: April 2019, Vol. 105, No. 1, pp. 22-27

^{vii} Barre, Luke, M.D., M.P.H., Oliver, B, Alexander-Scott, N. M.D., M.P.H., McCormick, M, M.P.H., Elmaleh, R., McDonald, James V. M.D.,M.P.H. . "Impact of State Regulations on Initial Opioid Prescribing Behavior in Rhode Island." *Rhode Island Medical Journal* (2013), U.S. National Library of Medicine, 1 Aug. 2019, <https://www.ncbi.nlm.nih.gov/pubmed/3139896>