

***MEMORANDUM***

**TO:** Commissioner Chen

**FROM:** David Herlihy, Director, Board of Medical Practice

**DATE:** February 27, 2013

**SUBJECT:** **Expedited Partner Therapy**

1. You asked for a brief outline of the Board's position regarding the practice of prescribing antibiotics for the sexual partners of patients diagnosed with sexually-transmitted diseases, without examining those partners. The practice is referred to as Expedited Partner Therapy, or EPT. Absent a motion establishing a position, I cannot speak for the Board, but I can provide input based upon recent discussions of proposals to provide prophylactic prescriptions for contacts of patients diagnosed as having pertussis.
2. The Board generally opposes statutory provisions that set the standard of care in law. The Board does not set the standard of care, but interprets the standard of care as it exists in the licensed community. The standard is continually changing, sometimes quickly. Provisions that provide for prescribing without having had appropriate patient contact constitute legislation of the standard of care. The legislative process is not the right way to establish the standard of care.
3. The starting point for issues relating to the prescribing of medications for those not patients of the physician and who have not been examined is simple – it is prohibited. Such acts do not meet the standard of care. The prohibition against prescribing absent a physician-patient relationship is part of the unprofessional conduct statute, which makes it a form of unprofessional conduct to prescribe without having established a proper physician-patient relationship and establishing a documented diagnosis by use of accepted medical practices. 26 V.S.A. § 1354(a)(33). That provision is specific to prescribing in response to electronic communications, but it reflects the Board's position on all prescribing.
4. The practice of EPT has developed as an exception to the requirement to examine and diagnose prior to prescribing. EPT has been accepted only after a thorough, scientific examination of the risks and benefits of prescribing. There are risks to the individual and risks to the community, even with a prescription for antibiotics, which are perceived as drugs with low risks. Some antibiotics can pose a risk of death to certain patients, and all antibiotics come with the risk of side effects. The risk to the community is in the development of resistant strains of bacteria; generally antibiotics should be prescribed only when necessary. The careful balancing of the risks and benefits is reflected in the Centers for Disease Control and Prevention Guidance for the use of EPT.
5. Recent changes to the CDC Guidance illustrate how the standard of care evolves, providing timely evidence of why the standard of care should not be set in statute. The Guidance was established in 2006 with the recommendation for EPT to treat the partners of those with Gonorrhea. The development of resistant strains has changed that. As of 2012, the Guidance was modified. Only those who are unlikely to be evaluated and treated should be treated through EPT. All others should be treated by a provider.
6. In sum, the Board feels strongly that the standard of care should not be set in statute, but is accepting of EPT when it has been carefully studied and become a recommendation of the CDC.