

The patient reports that Dr. Caputo prescribed amoxicillin and Tramadol for pain on June 6. The Board notes that although Dr. Caputo's written response to the Board states that he prescribed both Augmentin 875 mg for infection and Tramadol 50 mg for pain (dispensed as amoxicillin and Tramadol according to the pharmacy record), Dr. Caputo's progress note fails to mention the prescribing of either drug, and the chart contains a carbon of only of the June 6, 2012 Tramadol prescription.

Dr. Caputo's next progress note indicates surgery was done on June 8, 2012.

Dr. Caputo's next progress note is dated June 13, 2012, noting post-operative pain and some swelling, "Plan: As above.¹ Rx codeine #3 without acetaminophen."² A carbon of the prescription in the chart dated June 13, 2012 lists 20 "codeine #3" with instructions for use.

The patient had the June 13 prescription brought to the Sav-On Pharmacy in Lincroft. When the medication was delivered, however, the patient realized that it was not simple codeine, but rather acetaminophen with codeine. The patient personally brought the medication back to the pharmacy the same day, and explained the problem. While the patient waited, the pharmacist on duty telephoned Dr. Caputo and related the problem. According to Dr. Caputo, the pharmacist acknowledged having dispensed the acetaminophen combination because simple codeine was not in stock.

The two professionals had a lengthy telephone conference regarding a suitable replacement for the acetaminophen combination, in the course of which, Dr. Caputo acknowledges, he suggested to the pharmacist that the patient be given "SPRIX, a relatively new inhaler analgesic." Dr. Caputo represents that the pharmacist then advised that he looked it up on his computer "and unequivocally told me there was no contra-indication." Dr. Caputo therefore authorized dispensing SPRIX by verbal order.

The Board notes at this point that Dr. Caputo's chart, both for 2009 and 2012, contains specific information, in the medical history and allergy sections, of the patient's allergies to aspirin and acetaminophen, and history of asthma. In fact, there are two such notations on the June 6 office record.

¹ For convenience in following the event chronology, the Board draws together information gleaned from Dr. Caputo's record, and from the undisputed accounts of Dr. Caputo and the patient.

² The patient represents that he specifically reminded Dr. Caputo of the severe drug allergies, a representation which Dr. Caputo does not dispute.

Dr. Caputo's chart contains no mention of his extended telephone conference with the pharmacist while the patient waited at the pharmacy. The chart contains no mention of the telephoned prescribing of SPRIX and, as originally submitted to the Board, there was no copy of a SPRIX prescription.

It appears that soon after the patient began taking the SPRIX, he began sweating heavily and had difficulty breathing. He telephoned Dr. Caputo, reporting that SPRIX might be causing the problem. The doctor advised taking Benadryl and calling back later. There is no documentation in the chart of that call or Dr. Caputo's advice about Benadryl.

The patient reports that by the time the Benadryl was obtained, he had developed a violent reaction including chest pressure and sharp pain on the backs of both upper arms. An ambulance responded to a 911 call. On the way to the hospital, the patient went into cardiac arrest, which required an intensive course of cardiopulmonary resuscitation and hospitalization.

The next note is dated June 15, 2012, regarding the cancellation of the patient's next appointment (post-operative for the needle extraction surgery) because the patient is hospitalized for an "allergic reaction to med." The medication is not identified in Dr. Caputo's chart.

The Board has a number of concerns following Dr. Caputo's appearance before a Board Committee:

(1) Dr. Caputo appeared to be unfamiliar with dosage, effects and cross-effects of medications he commonly prescribes, including but not necessarily limited to awareness of cross-effects of SPRIX (which is the spray form of Toradol, which has cross-allergic effects with aspirin);

(2) Dr. Caputo's office chart, both for the 2009 visit and for the June 2012 encounters, clearly lists the patient's allergies to Aspirin and Tylenol and the history of asthma. It was Dr. Caputo's responsibility as prescriber (especially since he was in his office at the time the pharmacist contacted him about the patient's rejection of the acetaminophen/codeine combination), to have checked the manufacturer's information (such as by checking the PDR) about the "new drug" that he himself proposed to the pharmacist, rather than relying solely on the pharmacist;

(3) Warnings about patients with a history of asthma and sensitivity to aspirin are clearly noted in the SPRIX drug information, both in the PDR as well as the SPRIX package insert, and should have alerted Dr. Caputo to the significant risk posed to this patient by use of SPRIX;

(4) Dr. Caputo failed to document highly significant events in his progress notes: the pharmacist's call and conference on June 13 when the patient returned the medication which had been dispensed

by the pharmacist; Dr. Caputo's telephoned prescribing of SPRIX; the patient's telephone call reporting his reaction and Dr. Caputo's advice to take Benadryl; and the lack of identification in his chart of the "med" to which the patient had a reaction which resulted in his hospitalization.

(5) The Board is also concerned that the chart copy originally submitted to the Medical Board prior to Dr. Caputo's appearance failed to include a copy of the SPRIX prescription, which he produced at his appearance on June 5, 2013 - undated and bearing two different handwritings.

Had it not been for the patient's complaint to the Board, provided to Dr. Caputo by the Board office seeking his response, a reviewer of Dr. Caputo's chart would not have learned of the pharmacist's error (made known on June 13, 2012 to Dr. Caputo), nor of the telephoned prescribing of SPRIX that day at Caputo's suggestion, nor of the by-then known information about the adverse and nearly fatal reaction of the patient to Caputo's prescribing; nor of Dr. Caputo's June 13 receipt of direct information from the patient about his quick reaction to the SPRIX and the Benadryl recommendation; and the production of the original SPRIX prescription - undated and not otherwise referenced in any way in the patient chart - and not produced until Dr. Caputo's appearance before the Committee a year after the event.

However, as to one of the above issues, the Committee finds that Dr. Caputo's discussion with the pharmacist, and reliance upon that person's advice, mitigates his responsibility as a prescriber of the SPRIX drug on June 13, 2012.

The Board therefore issues to Dr. Caputo this letter of warning regarding negligent prescribing and failure to comply with Board rules requiring full and accurate documentation of events and medications in the patient chart, on condition that - and reliance upon - Dr. Caputo's signed agreement to promptly take and successfully complete a Board-approved course in prescribing for pain management, to address the appropriate use of commonly prescribed pain medications.³

He shall fully familiarize himself with the effects and cross-effects of the medications he prescribes; and he shall take care to document and date all significant information in his progress notes, including messages regarding prescribing problems, adverse

³ Successful completion means achieving a grade of unconditional passing. A list of approved courses/programs, such as those offered by The Center for Personalized Education for Physicians (CPEP), is available from the Board office.

reactions, his response, and careful narrative documentation of all medications he prescribes, whether in written or verbal order form.

STATE BOARD OF MEDICAL EXAMINERS

BY: *George J. Scott* D.D. FRCOFP
GEORGE J. SCOTT, D.P.M., D.O.
PRESIDENT

I have read the within Letter Of Warning and agree to comply with its directives.

Patrick J. Caputo
Patrick J. Caputo, D.P.M.

Agreed as to form and entry.

Scott C. Bushelli
Scott C. Bushelli, Esq.

**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license;
- (2) Which censures, reprimands or places on probation;
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such federal or State agency that is publicly available information.

Pursuant to N.J.S.A.45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.