

ACTION REPORT

BOARD OF MEDICAL QUALITY ASSURANCE

No. 6 - January 1978

Cappers and Stearers

In the May Action Report we printed detailed disciplinary guidelines for medical misconduct, including the unethical employment of "Cappers and Stearers". Since then many readers have asked "What in the world is a 'Capper or Stearer'?" A Sausalito physician writes: "I've practiced medicine for 26 years and I've never come across either of these two terms."

These are archaic terms used by the legislature many years ago to mean persons employed by a physician to solicit or procure business for him.

In olden days, cappers and stearers (or steerers) were bunco artists. A "capper" was a decoy or lure for the purpose of swindling. A "steerer" is one who gains the confidence of the person intended to be fleeced and steers or leads the victim to a place where the victim is robbed or swindled.

Today, "Cappers" and "Stearers" mean paid agents used to drum up business for professionals such as doctors, lawyers or dentists. They're first cousins to a "Runner" - one who is paid to run accident cases to a lawyer's office.

It's professional misconduct for a physician to employ people - cappers, stearers, anybody - to solicit or procure business for his practice.

DRUGS - DUTY TO WARN

Pharmacists are required under state law to give warnings to patients of the harmful effects of a prescribed drug when combined with alcohol, or if the drug impairs the ability to drive (B&P 4047.4). The Pharmacy Board is required to list these "warning" drugs and to send the list to each pharmacy in the state.

A judge from San Bernardino County complains to the Medical Board that many physicians are guilty of the common practice of giving out sample pills of these "warning" drugs to patients in the office without giving the required warning about its harmful combination with alcohol, or its impairment to driving.

When dispensing in the office, physicians are reminded of their duty to keep informed of the drugs requiring warning, and to properly warn their patients.

The following lists of drugs were compiled by the Pharmacy Board, and published in its Newsletter of July 1976.

LIST I

The following list of classes of drugs when taken alone or with alcohol, may impair a person's ability to drive a motor vehicle or operate machinery.

Sedative-Hypnotics

Barbiturates
Chloral Hydrate (Noctec, Somnos)
Flurazepam (Dalmene)
Chlordiazepoxide (Librium)
Meprobamate (Miltown Equanil)
Hydroxyzine (Vistaril Atarax)
Methaqualone (Quaalude)

Muscle Relaxants

Methocarbamol (Robaxin)

Narcotics & Other Analgesics

Indomethacin (Indocin)
Pentazocine (Talwin)
Propoxyphene (Darvon)

Phenothiazine Derivatives

Chlorpromazine (Thorazine)
Prochlorperazine (Compazine)
Trifluoperazine (Stelazine)

Tricyclic Antidepressants

Amitriptyline (Elavil)
Imipramine (Tofranil)

Antihistamines including Motion Sickness Agents, Antipruritics, & some Antinauseants

Diphenhydramine (Benadryl)
Triclenamine (PBZ)
Trimiprazine (Temaril)
Chlorpheniramine (Chlortrimeton)

All Schedule II, III, and IV depressant or narcotic controlled substances when prescribed in dosage which could have an adverse effect on a person's ability to operate a motor vehicle.

LIST II

The following classes of drugs may have harmful effects when taken in combination with alcohol.

Alcohol Sensitizing Agents
Disulfiram (Antabuse)
Calcium Cyanamide (Temposil)

Mono Amine Oxidase Inhibitors (hypertensive crisis precipitated by alcoholic beverages containing Tyramine)
Tranylcypromine (Parnate)

Hypoglycemic Agents (chronic ingestion of large amounts of alcohol may potentiate the Hypoglycemic effect)

Tolbutamide (Orinase)
Chlorpropamide (Diabinese)
Phenformin (DBI)
Insulin

Vasodilators (alcohol potentiates hypotension may cause cardiovascular collapse)
Nitroglycerin
Isosorbide (Isordil Sublingual)

LIST III

The following classes of Ophthalmic preparations do not enhance the effects of alcohol but may impair a person's ability to drive a vehicle through their effects on vision.

Anticholinergic and Sympathomimetic Amines
Atropine
Cyclopentolate (Cyclogyl)
Phenylephrine
Epinephrine

DEPARTMENT OF
Consumer Affairs

INACTIVE LICENSES

Assembly Bill 784 (Rosenthal) was recently enacted by the California State Legislature. The bill became law on August 27, 1977. It creates an inactive license category for all healing arts boards, including the Board of Medical Quality Assurance. A physician who holds an inactive license need not comply with continuing education requirements in order to renew his or her license. However, in order to restore an inactive license to active status, the physician must complete the required continuing education for a single license renewal period, or 50 hours.

A PHYSICIAN WHO HOLDS AN INACTIVE LICENSE MAY NOT ENGAGE IN THE PRACTICE OF MEDICINE IN THE STATE OF CALIFORNIA.

Inactive and active licenses are renewed at the same time, and the renewal fee is the same. Physicians may request an inactive license by writing to the Division of Licensing, Board of Medical Quality Assurance, 1430 Howe Avenue, Sacramento, California 95825.

BIRTH DATE LICENSURE RENEWAL

Recent legislation (Assembly Bill 1666) has been enacted to establish a system of license renewal based on the birth date of the physician. The biennial (every two years) renewal periods will now end on the last day of the month of birth in the even-numbered years for those physicians born in even-numbered years and on the last day of the month of birth in odd-numbered years for those physicians born in odd-numbered years. The biennial renewal fee for this renewal period has been prorated to each physician's birth date. Although all physicians must still renew their licenses prior to February 28, 1978, the amount of their renewal fee and length of time the renewed license is valid depends upon the month and year (odd or even) of each physician's birth date. License renewal applications will be mailed to physicians at the end of January.

New Licensed Health Care Practitioner Acupuncturist

The Business and Professions Code defines "Acupuncture" as the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body.

Although the actual practice dates back thousands of years, the licensure category of acupuncturist has been established only recently. Enabling legislation was passed, in California, in 1975 and the first certificates were issued in 1976. As of November, 1977, approximately 590 acupuncturists have been licensed.

Although acupuncturists need not work under the supervision of physicians and surgeons, the law allows them to perform acupuncture only upon "a prior diagnosis or referral from a licensed physician and surgeon, dentist, podiatrist, or chiropractor". The referral need only be for acupuncture and need not be to a specific practitioner. The acupuncture performed must be appropriate to the diagnosis. The Acupuncturist is required by law to report to the referring or diagnosing practitioner the nature and effect of the treatment.

The Acupuncture Advisory Committee and the Division of Allied Health Professions have received many complaints from certified acupuncturists regarding the refusal of physicians to cooperate in the referral process even though a referral may have been requested by the patient. The Board of Medical Quality Assurance requests that all physicians and surgeons be responsive to patient requests for referral for acupuncture.

Further information regarding the legal status of the practice of acupuncture can be obtained by calling the Division of Allied Health Professions at (916) 920-6373.

Medi-Cal Reimbursements

Some physicians and surgeons have reported that certain drugs or treatment modalities which may be drugs or treatments of choice are not those which will be reimbursed under the Medi-Cal program. An example cited is that Medi-Cal will reimburse for the use of saline but not for prosteglandin for second trimester abortions although the latter drug is recommended by official Ob/Gyn bodies.

Questions regarding which drugs or treatment modalities are authorized and payable under the Medi-Cal program can be directed, along with suggestions, criticisms, or complaints, to Medi-Cal Field Offices in San Francisco by calling toll-free (800) 792-0880 or calling collect (213) 620-5980 in Los Angeles.

DISCIPLINARY ACTIONS

6/1/77-10/26/77

Sundquist, Ludwig, M.D. — Baldwin Park
2361(a), 2392. Violation of Probation B & P Code
Violation of conditions or probation dated
November 29, 1977, aiding and abetting
unlicensed practice of medicine.
Revoked.
May 11, 1977.

Orrock, Pat M., M.D. — Brea
2417
Mental illness to such an extent as to affect his
ability to conduct with safety the practice of
medicine.
Revoked.
October 26, 1977

Lund, Douglas, M.D. — Pollock Pines
2399.5 B & P Codes
Prescribing drugs without a good faith prior
examination or medical indication.
Revoked, stayed, 10 years probation with terms
and conditions.
September 30, 1977

Allison, Murray, RPT — San Diego
2660(i), 2620, B & P Code
Violation of the Medical Practice Act, diagnosing
for disease.
Suspension for 180 days, stayed 90 days, 3 years
probation with terms and conditions.
July 15, 1977

Birnbaum, Milton, M.D. — Los Angeles
2361(e), 2383 B & P Code
Commission of an act involving dishonesty and
moral turpitude, conviction of criminal conspiracy
to cheat and defraud Medi-Cal.
Revoked, stayed, 5 years probation with terms
and conditions.
September 14, 1977

Gilbert, Beatrice, M.D. — Denver, Colorado
2361(b), 2361(c) B & P Code
Gross negligence and incompetence in adminis-
tering anesthesia to patients which resulted in one
patient's death.
Order of Dismissal, surrender of license.
October 14, 1977

- Schwartzman, Leonard, M.D.** — Los Angeles
2390, 2411 B & P Code
Self-administration of drugs.
Suspended one year, stayed, 5 years probation with terms and conditions.
May 20, 1977.
- Thomas, Claude R., M.D.** — Corning
2361(e), 2383, 2384, 2391.5, 490 B & P Code
1355 (a) Title 16, California Administrative Code
Commission of an act involving moral turpitude, conviction of a felony, violation of statutes regulating controlled drugs, acquiring a controlled substance by fraud, deception and subterfuge, self-administration of drugs. (Demerol)
Revoked, stayed, 5 years probation with terms and conditions.
June 17, 1977.
- Brooks, Clifton, M.D.** — Santa Ana
2392 B & P Code, 1379.4 Title 16 California Administrative Code
Aiding and abetting unlicensed practice of medicine and violation of regulations regarding Physician's Assistants.
Suspended 90 days, stayed, 3 years probation with terms and conditions.
June 17, 1977
- Gellert, Selig, M.D.** — San Francisco
2361 B & P Code
Failure to complete medical records for patients in hospital.
Revoked, stayed, 5 years probation with terms and conditions.
June 17, 1977
- Hunt, Kenneth I., M.D.** — Yankton, South Dakota
2363 B & P Code
Suspension or revocation by another state due to conviction of obtaining a controlled drug by means of false or forged prescriptions.
Revoked, stayed, 5 years probation with terms and conditions.
June 17, 1977
- Schuchman, Abe, M.D.** — Los Angeles
2361(e), 490 B & P Code
Commission of an act involving dishonesty, conviction of offense of conspiracy to commit capping. (Soliciting business for ambulance chasing attorneys.)
Revoked, stayed, 5 years probation with terms and conditions.
June 18, 1977.
- Zachary, Lloyd, M.D.** — Yuba City
2361(b), 2361(c), B & P Code
Gross negligence and incompetence, failure to properly monitor patient's condition while acting as an anesthesiologist which resulted in patient suffering severe personal injury and severe and disabling brain damage.
Revoked, stayed, 10 years probation with terms and conditions.
June 18, 1977
- Kleifgen, George V., M.D.** — Island Park, Idaho
2363 B & P Code
Suspension or revocation by another state due to conviction of violating 9 counts of making false claims for medical services to the Social Security Administration.
Revoked.
June 23, 1977
- Marchbanks, Howard E., M.D.** — Orange
2361(b), 2361(c) B & P Code
Gross negligence and incompetence in treatment of obstetrical patients during delivery.
Revoked, stayed, 6 months suspension, 10 years probation with terms and conditions.
June 23, 1977
- Gutierrez, Ricardo, Hearing Aid Dispenser** — Los Angeles
3401(e), 490, B & P Code
Fraud or misrepresentation in the fitting and selling of a hearing aid.
Revoked.
July 15, 1977
- Gergen, John, M.D.** — Merced
2392, 2399.5, 2391.5 B & P Code
Aiding and abetting unlicensed practice of medicine, prescribing drugs without a good faith prior examination or medical indication, violation of statutes regulating controlled drugs.
Suspended 10 days, stayed, 1 year probation with terms and conditions.
August 1, 1977
- Brown, Donald C., M.D.** — West Covina
2361(e), 2390 B & P Code
Commission of an act involving moral turpitude, felony hit and run while under the influence of alcohol.
Revoked, stayed, 10 years probation with terms and conditions.
July 22, 1977
- Hughes, Richard E., M.D.** — Long Beach
2361(e) B & P Code
Commission of an act involving moral turpitude, engaged in sexual misconduct.
Revoked, stayed, 3 years probation with terms and conditions.
July 25, 1977
- Watson, John L., M.D.** — West Covina
2390, 2391.5, 2361(a) B & P Code
Self-administration of drugs, violation of statutes regulating controlled drugs.
Revoked, stayed, 9 months suspension, 10 years probation with terms and conditions.
July 25, 1977
- Palmer, Landon, M.D.** — Santa Maria
2361(a), 2372 B & P Code
Submitting false claims for reimbursement under the California Medical Assistance Program for physician's services not rendered by a physician.
Suspended 180 days, stayed, 3 years probation with terms and conditions.
July 25, 1977
- Winter, Bruce V., M.D.** — Chicago, Illinois
Violation of Probation
Respondent has been in violation of his probation from the decision dated June 14, 1969, in that he has failed to take or to successfully pass any oral examination in clinical subjects as required by Condition I of his probation.
Revoked.
July 25, 1977
- Goldstein, Morris, M.D.** — Beverly Hills
2399.5, 2384 B & P Code
Conviction of violating statutes regulating controlled drugs, prescribing drugs without a good faith prior examination or medical indication.
Revoked, stayed, 5 years probation with terms and conditions.
July 26, 1977
- Bell, Glen Dale, D.P.M.** — Walnut Creek
2361(a), 2392, 2361(e), 2411 B & P Code
Aiding and abetting unlicensed practice of podiatric medicine, violation of Welfare and Institutions Code by falsely certifying he had performed services when in fact he did not, the services were performed by an unlicensed individual.
Revoked, stayed, 5 years probation with terms and conditions.
July 7, 1977
- Turner, Charles W., M.D.** — Newport Beach
2361(e), 2383, 490 B & P Code
Conviction of a felony involving moral turpitude, solicitation for kidnaping, false statement in application for passport, making false statements in application for driver's license.
Suspended one year, stayed, actual suspension for 45 days, 5 years probation with terms and conditions.
July 15, 1977
- Rogers, Maurice B., M.D.** — Los Angeles
2383, 490, 2391.5, 2399.5 B & P Code
Conviction of a felony involving moral turpitude, violation of statutes regulating controlled drugs, prescribing drugs without a good faith prior examination or medical indication.
Revoked, stayed, 10 years probation with terms and conditions.
July 15, 1977
- Tennant, Thomas, M.D.** — Santa Barbara
Violation of probation, 2361(f), B & P Code
Failure to submit quarterly affidavits, failure to report to the Division, failure to notify the Division of changes of employment, commission of act involving dishonesty.
Revoked.
September 30, 1977
- Kahn, Fred, M.D.** — Justin
2361(a), 2392, 2361(e) B & P Code
Commission of acts involving dishonesty, aiding and abetting the unlicensed practice of medicine.
Revoked, stayed, 3 years probation with terms and conditions.
September 30, 1977
- Lieberman, Howard, M.D.** — Hemet
2372, 2411, 2391.5, 2390 B & P Code
Self-administration of drugs, writing false prescriptions to obtain drugs, violation of statutes regulating controlled drugs.
Revoked, stayed, 10 years probation with terms and conditions.
September 14, 1977
- Chun, Richard, M.D.** — Roseville
2361(b), 2361(c) B & P Code
Gross negligence and incompetence in treating, diagnosing and caring for patients.
Revoked, stayed, 5 years probation with terms and conditions.
June 23, 1977
- Davoll, Warren, M.D.** — San Pedro
2361(e) B & P Code
Commission of an act involving dishonesty, submitting false claims in Medi-Cal Program.
Suspended 30 days, stayed, 2 years probation with terms and conditions.
June 23, 1977
- Doyle, Martin, M.D.** — Los Angeles
2361(e) B & P Code
Commission of an act involving dishonesty, submitting false claims in Medi-Cal Program.
Suspended 30 days, stayed, 2 years probation with terms and conditions.
June 23, 1977
- Prastka, George, M.D.** — Costa Mesa
2392 B & P Code
Aiding and abetting the unlicensed practice of medicine.
Revoked, stayed, 5 years probation with terms and conditions.
June 23, 1977
- Tepper, David J., M.D.** — Oakland
2361(b), 2361(c) B & P Code
Gross negligence and incompetence, failure to report to local public health authorities a suspected case of an infectious disease in a known food handler.
Suspended one year, stayed, 5 years probation with terms and conditions.
June 23, 1977
- Mandel, Steven, D.P.M.** — Carson
2383, 490, 2391.5, 2361(e), 2399.5 B & P Code
Prescribing drugs without a good faith prior examination or medical indication, commission of acts involving moral turpitude, dishonesty and corruption, obtaining drugs with false prescriptions.
Revoked.
September 26, 1977
- Williams, Ernest, M.D.** — Delano
2361(b), 2361(c) B & P Code
Gross negligence and incompetence in obstetrical patients during delivery.
Revoked, stayed, 90 days suspension, 10 years probation with terms and conditions.
August 29, 1977
- Rachels, Andre W., M.D.** — Los Angeles
2372, 2390 B & P Code
Self-administration of drugs.
Revoked, stayed, 10 years probation with terms and conditions.
August 29, 1977
- Demery, Leroy, M.D.** — Los Angeles
2399.5 B & P Code
Prescribing drugs without a good faith prior examination or medical indication.
Revoked, stayed, 5 years probation with terms and conditions.
August 29, 1977
- Mitts, Roger, M.D.** — San Jose
Violation of probation
Failure to obtain consent from the Division regarding employment, failure to obey all laws.
Revoked.
August 29, 1977
- Schulte, Jerome, M.D.** — Fresno
2361(d), 2361(e), 2417 B & P Code
Gross immorality and commission of an act involving moral turpitude, making sexual advances to patients, mental illness to such an extent as to affect his ability to conduct with safety the practice of medicine.
Revoked, stayed 10 years' probation with terms and conditions.
September 14, 1977

Novick, William, M.D. — Encinitas
2361(c), 2361(d), 2361(e) B & P Code
Gross incompetence, gross immorality and
commission of an act involving moral turpitude.
Respondent injected urine into patient.
Revoked.
September 14, 1977

Comstock, Tracy, M.D. — Elsinore
2361(a), 2391.5, 2399.5 B & P Code
Prescribing drugs without a good faith prior
examination or medical indication, violation of
statutes regulating controlled drugs.
Revoked, stayed, 45 days suspension, 5 years
probation with terms and conditions.
September 26, 1977

Pyzer, Lloyd, M.D. — San Jose
2392 B & P Code
Aiding and abetting unlicensed practice of
medicine.
Suspended 90 days, stayed, 5 years probation with
terms and conditions.
June 30, 1977

Flaum, Eugene, M.D. — Los Angeles
2391.5, 2361.5 B & P Code
Excessive prescribing of drugs, violation of
statutes regulating controlled drugs.
Suspended one year, stayed, 5 years probation
with terms and conditions.
September 30, 1977

Perlman, Stephen, M.D. — Olympic Valley
2372, 2391.5 B & P Code
Violation of statutes regulating controlled drugs.
Revoked, stayed, 5 years probation with terms and
conditions.
September 30, 1977

Morris, David J., M.D. — Salt Lake City, Utah
2384, 2391.5, 2390, 490 B & P Code
Violation of statutes regulating controlled drugs,
self-administration of drugs.
Suspended one year, stayed, 5 years probation
with terms and conditions.
September 30, 1977

Brehm, Gill W., M.D. — Tuolumne
2390, 2391.5, 2391 B & P CODE
Self-administration of drugs, violation of statutes
regulating controlled drugs, prescribing for an
addict.
Revoked, stayed, 6 months suspension, 10 years
probation with terms and conditions.
September 30, 1977

Morgen, Volney, M.D. — Glendora
2390, 2361(e), 2383, 2384, 2391.5 B & P Code
Violation of probation terms and conditions
which became effective April 28, 1971, self-
administration of drugs, violation of statutes
regulating controlled drugs.
Revoked.
January 24, 1977

Salzer, John, M.D. — San Carlos
2391, 2391.5, 2399.5 B & P Code
Prescribing drugs to a known addict, violation of
statutes regulating controlled drugs, prescribing
drugs without a good faith prior examination or
medical indication.
Revoked, stayed, 5 years probation with terms and
conditions.
September 14, 1977

Hartman, Eugene, Ph.D. — San Diego
2960(a), 490 B & P Code
Conviction of a felony involving moral turpitude,
forgery.
Revoked.
August 1, 1977

Galbert, Michael, M.D. — Modesto
2390, 2391.5 B & P Code
Self-administration of drugs, violation of statutes
regulating controlled drugs.
Revoked.
August 18, 1977

Wachs, Steven B., M.D. — Davis
2392
Aiding and abetting the unlicensed practice of
medicine.
Suspended 20 days, stayed, 3 years probation with
terms and conditions.
August 18, 1977

Anderson, Robert E., M.D. — Daly City
2417 B & P Code
Mental illness to such an extent as to affect his
ability to conduct with safety the practice of
medicine.
Revoked, stayed, 10 years probation with terms
and conditions.
August 25, 1977

Marquez, Emilio, M.D. — Los Angeles
2361(e), 2411, B & P Code
Commission of acts involving dishonesty and
moral turpitude, submitted false claims to Medi-
Cal.
Revoked, stayed, 5 years probation with terms and
conditions.
August 25, 1977

CORRECTION

"Clarification and correction to prior Action Report (December 1976) concerning:

Fuller, Leland J., M.D. — Sacramento

Interim Decision based on stipulation: "By reason of his medical condition, respondent shall not practice medicine until he receives written permission from Board. Other terms and conditions. Accusation on other allegations continued until further order of Board."

REVERSAL

On July 29, 1977, the Los Angeles Superior Court ordered the reinstatement of Dr. Filmore Testa's medical license. This judgment overturned the Division of Medical Quality's decision revoking Dr. Testa's license for violation of Sections 2361, 2399.5, and 4211(a) (c) (k) of the Business and Professions Code. This decision was published in Action Report No. 3, March 1977. Dr. Testa's license has been reinstated.

ELECTION OF OFFICERS

At the October 1977 meeting, the Board elected the following officers:

Florence Stroud, R.N., of Berkeley, is President of the Board of Medical Quality Assurance. Division Presidents are: Eugene Feldman, M.D., Medical Quality; William Gerber, M.D., Licensing; and Jeffrey Gordon, M.D., Allied Health Professions.

DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF MEDICAL QUALITY ASSURANCE
1430 HOWE AVENUE
SACRAMENTO, CA 95825

Allied Health Professions (916) 920-6373
Applications and Examinations (916) 920-6411
Continuing Education (916) 920-6411
Disciplinary Information (916) 920-6363
Fictitious Names and Corporations (916) 920-6411
Verifications of Licenses (916) 920-6343

