LEGISLATIVE CHANGES WILL IMPROVE EFFECTIVENESS OF MEDICAL BOARD

Other Law Changes Affecting Physicians

Along with Senate Bill 1888 and Assembly Bill 2392, the Legislature passed several additional bills affecting BMQA and the professions it licenses. They are summarized below.

Contact the Board if you wish additional information about a bill.

AB 2967 (Peace)—Requires health insurers which restrict an insured's choice of physician or health facility to place the following notice on all promotional material.

AB 4029 (Condit)—Classifies anabolic steroids as a controlled substance in Schedule (Continued on Page 7)

Hospitals Gain Protections When Reporting Disciplinary Actions

California hospitals and other health facilities which report to the BMQA when they take disciplinary action against a physician or other licensed professional now have increased protection from being sued for their action. Senate Bill 1888, authored by Senator Walter Stiern, provides additional immunity for facilities which comply with the reporting requirements contained in Business and Professions Code Section 805.

Other provisions of SB 1888 will:
• Reduce the initial license fee for a physician enrolled in postgraduate training to 50% of the usual fee.
• Set the initial license and biennial renewal fees for physicians and surgeons at $255, effective January 1, 1987.
• Increase the fee for a duplicate license certificate from $10 to $50.
• Provide certain limited legal immunity to health facilities and professional societies which are required to report the denial, removal, or restriction of staff or membership privileges to the BMQA; and further provides that BMQA shall be entitled to inspect and copy documents relating to a reportable action.

New Licensing Procedures Will Help Control Fraudulent Applications

Legislation recently signed by Governor Deukmejian will improve the Board's ability to prosecute individuals who falsify applications for a physician license. Assembly Bill 2392, authored by Assemblyman William J. Filante, M.D., makes it unlawful to falsify any document which is required to be included with an application. Current law applies only to the application itself.

A related amendment changes the statute of limitations on falsified applications. At present, prosecution is limited to three years from the date the application is filed. Under AB 2392, the statute of limitations does not begin until the date the fraud is discovered.

Among other provisions, the Filante bill will:
• Make it illegal to violate the security of a licensing examination;
• Clarify that physicians who are exempt from licensure because they practice in a federal facility may not practice in the community unless they are licensed in California;
• Allow the Board to defend an expert witness who is sued for participating in a BMQA disciplinary action. In addition to defamation, suits for conspiracy, invasion of privacy and other theories will be defended;
• Provide for payment of expert consultants who sit on nondisciplinary physician peer counseling panels.
Would you examine the testes of a young adult male who presented with bilateral breast tenderness? Three physicians at a student health clinic did not. As a result, a 26-year-old college student died sixteen months later from a delayed diagnosis of metastatic embryonal carcinoma of the left testis.

Three doctors who had the opportunity of making the diagnosis concentrated only on the patient’s presenting complaints. The patient was initially seen because of a two-week history of “tender nipples.” The first doctor recorded: “Breasts firm, regular masses under each nipple, smooth and mobile. Probably cystic breast. Watch if no better recheck one month.” The testes were not examined.

Three weeks later, the patient returned with a different complaint: “Irritated penis.” The brief notes by a second physician indicated that the penis “appears a little red.” This doctor suggested that the patient “abstain for a few days.” The patient’s prior breast problems were not reviewed. The testes were not examined.

A week later, the patient returned with a complaint of “severe neck pain.” A third doctor’s brief exam noted, “no positive neck findings.” The doctor concluded that the “patient is very tense.” No mention was made of the prior problems with either the breasts or the penis. No other examinations were carried out.

Four months later, the patient again returned to the clinic. This time he complained of “a clear discharge from the nipples for the past two weeks.” For the first time, he complained of an enlarging left testicle of a month’s duration. The fourth doctor to examine this patient continued to concentrate on the patient’s specific complaints. The breasts were “differently increased, but only slightly tender. (The) nipples (are) increased in size with an increased venous pattern. The left testicle has a fixed questionable mass. Refer to urologist.”

The following day, the patient was thoroughly examined by a urologist who not only noted the left testicular mass, but also discovered a “large left supravacular lymph node.” Biopsy of the node confirmed the diagnosis of metastatic testicular embryonal cell carcinoma with elements of choriocarcinoma.

Subsequent studies of the patient showed a large retroperitoneal mass at the L-3 level. Both serum and urine human chorionic gonadotropin levels were exceptionally high. Despite intensive chemotherapy, the patient died 10 months later. Autopsy revealed a testicular carcinoma that had disseminated to the brain, thyroid, lungs, liver, kidneys, pituitary, spleen, para-aortic and para-cervical lymph nodes.

Pathologists tell us that testicular cancers are the most common cancers in men aged 15 to 35. Urologists tell us that examination of the testes should be included in any complete examination, but especially in a young adult male who complains of breast tenderness or enlargement. Failure to do so constitutes a departure from the standard of practice and shows a lack of knowledge in carrying out medical responsibilities.

THE PREVENTION OF PERINATAL HEPATITIS B

Mother-to-infant transmission of hepatitis B virus (HBV) plays an important role in propagating high rates of hepatitis B infection in many Asian and Pacific Island populations. The rate of development of the chronic HBV carrier state in infants born of HBsAg-positive mothers may be reduced by as much as 80-90 percent with the timely use of hepatitis B immune globulin (HBIG) and hepatitis B vaccine.

Since 1975, more than 750,000 Southeast Asian refugees have entered the United States. Nearly 40 percent of these new refugees have settled in California; about 45 percent are under the age of 18, and 40 percent are female.

In 1984, the Immunization Practices Advisory Committee of the USPHS and the State’s Infectious Disease Branch recommended that infants born of HBsAg positive women receive HBIG (0.5ml IM) within 12 hours of birth and hepatitis B vaccine (10ug/0.5ml) at birth and at one and six months after the original dose (MMWR 33:285-290, 1984).

Physicians, hospitals and health departments should review their perinatal hepatitis B prevention programs to search for gaps and to improve the efficiency of prenatal HBsAg screening of mothers and the tracking of infants born to HBsAg positive mothers to ensure the HBIG and all three doses of hepatitis B vaccine are given as recommended.
Fictitious Name Permits for MDs and DPMs

Q. Suppose Uriah Heep, M.D. wants to use a fictitious name, "Copperfield Medical Clinic," for his medical practice. What should he do?

A. Dr. Heep should register the name with BMQA and get a fictitious name permit. Otherwise, he'll run afoul of Section 2285, Business and Professions Code, which provides that the use of a fictitious name by a physician alone, in conjunction with a partnership or group, or as a name of a professional corporation, without first obtaining a fictitious name permit from BMQA, constitutes unprofessional conduct for disciplinary purposes.

The same rule applies to the Doctor of Podiatric Medicine (DPM), the foot surgeon.

Q. How much effort and red-tape is there in getting this fictitious name permit?

A. It's almost like falling out of bed—if everything is in order. The application is a simple one-page form. A small filing fee is involved. The permit is mailed out in a short time.

Q. What are the foreseeable problems that could delay the permit?

A. The most common problem is the proposed name. The name must not be confusingly similar to other names previously registered. The name must contain the words "medical clinic" or "medical group." This is required by statutory law, so don't blame our clerk. For example, proposed names like "Cyclops Eye Center" or "Wilshire Medical Institute" or "Radiology Associates" will not be approved because "medical clinic" or "medical group" is lacking in the name. (Section 2415, Business and Professions Code). Also, the term "Trauma" is not permitted, as in "Mercy Trauma Medical Group," unless the use is authorized by the local EMS agency (Emergency Medical Services). (Section 1798.165, Health and Safety Code).

Q. What about Podiatrists?

A. Similar rules apply. If Ankle Aweigh, D.P.M., applies for a permit, his fictitious name must contain one of these designations: "podiatry group," "podiatrists' group," "podiatry clinic," or "podiatrists' clinic." Examples: "Uptown Foot Clinic" or "Malibu Podiatry Center" will not be approved for a permit.

Q. What's the address to get an application form and further information?

A. Board of Medical Quality Assurance
Attn: Fictitious Name Section
1430 Howe Avenue
Sacramento, CA 95825
Phone: (916) 920-6074

NOTICE
AVAILABILITY OF DRONABINOL

Delta-9-tetrahydrocannabinol (THC), the main active ingredient in marijuana, known generically as dronabinol and to be marketed as Marinol® is not yet available for prescribing.

The medical literature has correctly reported the approval by the U.S. Food and Drug Administration of this drug for treatment of nausea and vomiting caused by cancer chemotherapy. What has not been clearly reported is that rescheduling must be completed under both the federal and state Controlled Substances Acts before dronabinol will be commercially available in California. Rescheduling will probably not be completed before January 1987.

In the meantime, the only legal supply of THC in California continues to be through the Cannabis Therapeutic Research Program sponsored by the Research Advisory Panel. Oncologists and ophthalmologists who want to become investigators should contact the Panel at 6000 State Building, San Francisco, CA 94102, (415) 557-1325.

Dr. Gualtieri Moves to Professional Review Organization

Antony C. Gualtieri, M.D. recently resigned his position as Chief Medical Consultant of BMQA to accept the medical directorship of the northern California region of California Medical Review, Inc. (CMRI).

A graduate of Stanford University, Dr. Gualtieri practiced plastic surgery in Santa Clara County. His association with government began when he served as member of a taskforce investigating nursing homes for Medi-Cal in 1977. Later that same year he joined BMQA as medical consultant in its San Mateo Regional Office.

In 1983 Dr. Gualtieri became Chief Medical Consultant for the Board, following the retirement of Joseph Cosentino, M.D. Among his many responsibilities have been directing the Board's Diversification Program (see story, page 5), and coordinating the activities of the BMQA regional medical consultants. He has been instrumental in stimulating the enactment of nondisciplinary panels to educate physicians, and has fostered the use of oral competency exams for alleged practice deficiencies.

Readers of the Action Report will recognize Dr. Gualtieri's column "Consultant's Corner." His articles have shared some of the unusual cases that have come before the Board's medical consultants in recent years.

Dr. Gualtieri lives in Sacramento. His wife, Kathy, heads the Office of Historic Preservation in the State Department of Parks and Recreation.

“Playing doctor” for keeps . . .

WHEN A PHYSICIAN IS NOT A DOCTOR

Southern Californians recently opened their newspapers and learned that a "physician" in a Santa Ana clinic was using someone else's license. The phony doctor was well thought of by patients and co-workers, and no one suspected.

The impostor was a man with some paramedical training and experience. Although the facts are still unclear, he either bought or illegally appropriated the license of a retired physician. It was well over a year before the masquerade collapsed. Meanwhile, the "doctor" treated illnesses and injuries, including suturing lacerations and doing minor surgery. He was caught when he attempted to renew the illegal license because he was unaware of the continuing education requirement.

The clinic could have avoided the chagrin, not to mention the danger to its patients, if it had been a little more thorough in its hiring practices. There are some simple steps which could have disclosed the fraud sooner.

• Call the Board to verify the license status of every potential physician employee. The verification number is (916) 920-6343. Ask for the date of birth and date of initial licensure as well as current status.

In the case described, the impostor was many years younger than the retired physician he impersonated.

• Check the information on the applicant's curriculum vitae. Call the references. You may even ask for a physical description.

• Probe a little into the applicant's depth of medical knowledge. The impostor had broad general information, but was evasive about more subtle questions. He carefully avoided treating complex cases, referring them to others for care.

• Even after a doctor joins your organization, if his or her behavior seems unusual, don't hesitate to look a little further. True imposters are few, but even one is a serious hazard to patients.

A final word: the most successful impostor BMQA has caught in recent years was a respected faculty member at a teaching hospital. He was considered a national expert in neonatology, when in reality he had less than a year of undergraduate education in non-medical subjects.

BOARD RECRUITING FOR CHIEF MEDICAL CONSULTANT

Following the resignation of Antony Gualtieri, M.D., BMQA has begun the process of recruiting a chief medical consultant. Physicians wishing information about the position may call the Board at:

(916) 920-6393
DISCIPLINARY ACTIONS  
February 1, 1986 to July 30, 1986  
Physicians and Surgeons
**BMQA Diversion Program for Physicians: An Alternative to Discipline**

**What is it?**

The Board of Medical Quality Assurance Diversion Program for Physicians is a rehabilitation network. Any physician eligible to practice in California, but who is impaired by substance abuse or mental (emotional or behavioral) illness, can participate in a personal plan for recovery as designed by a Diversion Evaluation Committee (DEC).

The DEC is composed of four physicians and one public member, all of whom are experts in substance abuse and mental illness. An objective, professional evaluation by the DEC embodies the protection of the public together with the rehabilitation of the physician. This evaluation results in a Diversion Agreement between the DEC and the physician participant.

**The “Illness of Loneliness”: Signs of Trouble**

Can you imagine a nurse telling me that I did not update a chart? I know I updated that chart. I’m going to tell her she is getting senile.

The other day, my chief called me in and told me the nurses thought I was acting funny. No big deal. I’m having some stress!

What is happening to me? I’m a doctor. I know what I’m doing. I’m all right—I’m just not happy.

My wife is threatening to leave me. I told her to go ahead and take the kids, too. They’re not talking to me anymore!

Why am I using? It’s the only thing that seems to help me in this screwed up world. I’ve got to stop. Oh God! Help me!

An impaired physician has tell-tale signs and symptoms: 1) Absenteeism often associated with failure to respond when on call, or frequent failure to keep office and hospital appointments; 2) Continual family squabbles; 3) Unexplained mood swings ranging from depression to euphoria; 4) Self-imposed isolation from colleagues; 5) Rationalizations justifying denial and lying.

**An Alternative to Discipline**

Disciplinary action does have positive effects. But it is not effective when dealing with illnesses. BMQA experience, since the program began in 1980, has demonstrated that treatment is far and away less expensive and more fruitful. To date, over 100 physicians have successfully completed their rehabilitation at a cost equivalent to educating five medical students to become doctors.

**A Confidential Program**

Any physician who enters the Diversion Program either by BMQA referral or by voluntary self-referral, has legal assurances that their identity as an impaired physician remains a confidential matter. However, if a physician in the program cannot be rehabilitated and is considered by the DEC to be unsafe to practice medicine, the physician will be reported to the enforcement unit of BMQA for expeditious disciplinary action. This action results in public disclosure.

**A Cooperative Effort**

The Diversion Program works with all persons interested in the physician participant: family, colleagues, and hospital medical staffs. Every effort is made to establish a responsible, yet caring support system.

**Costs of the Program**

Participants pay individual expenses incurred for hospitalization, follow-up group attendance and biological fluid monitoring. The BMQA pays the salaries of 10 full-time persons who coordinate and monitor the program. The 25 DEC members serve part-time and offer their services gratis.

**Where to Call**

BMQA Diversion Program
Chet Pelton, Program Manager
(916) 924-2561
SIGNING OF DEATH CERTIFICATES

The Board has recently received numerous complaints and inquiries from the funeral home industry and County Coroner's Offices regarding physicians' failure to sign death certificates in a timely manner.

Physicians are required by Health and Safety Code Section 10203 to complete and attest to the medical and health section data and the time of death on the certificate. The attending physician, defined as one who has treated the patient within 20 days before death, shall sign the certificate within 15 hours after the death (Health and Safety Code Section 10204).

If the physician feels he cannot legally attest to the patient's cause of death or he has not seen the patient within the 20 day period, the case shall be reported to the County Coroner's Office.

If a physician has questions in regard to the above, he may contact his County Coroner's Office or County Health Department, Vital Statistics Section.

CONTINUING MEDICAL EDUCATION (CME) AUDIT

In April of each year the Board of Medical Quality Assurance audits a random sample of physicians to verify that they have complied with the continuing medical education requirements (Business and Professions Code, Section 2190 and California Administrative Code, Sections 1336–1339.5).

All physicians are required to complete an average of at least 25 hours of approved category I CME each calendar year. The audit period consists of four years. Therefore 100 hours of CME must be completed and documented within that four year period.

Physicians who are audited and have not complied with the CME requirements will be required to make up any deficiency during the next biennial renewal period, and also complete the 50 hours required for that two year period. Physicians must document completion of any deficiency to BMQA as soon as possible.

The second major provision of Senate Bill 1879 is language continuing the licensure fees for podiatrists at current levels. High enforcement costs in the past few years have sharply increased the committee's budget needs. Legal action to revoke a license may cost the State as much as $30,000; if the licensee appeals, the costs are even higher.

Fee Schedule Extended

The second major provision of Senate Bill 1879 is language continuing the licensure fees for podiatrists at current levels. High enforcement costs in the past few years have sharply increased the committee's budget needs. Legal action to revoke a license may cost the State as much as $30,000; if the licensee appeals, the costs are even higher.

The Podiatry Examining Committee and the community of licensed podiatrists strongly support a vigorous policy of protecting consumers from incompetent and negligent practitioners. When rapidly increasing enforcement costs necessitated raising license and renewal fees to $525 four years ago, podiatrists throughout the state supported that legislation. That support continues, and SB 1879 was unopposed in the Legislature.

Cost Recovery Program

In an effort to avoid future fee increases, SB 1879 includes language strengthening the committee's cost recovery program. Current law permits the committee to seek recovery of its enforcement costs when it prevails in a disciplinary action. This bill prevents renewal of a license if the licensee has failed to pay costs as ordered in a disciplinary action. The bill recognizes that consumers may not perceive the committee as the place to go for information about podiatry licensure or for assistance with a problem involving a podiatrist. By using the commonly recognized designation "board" they believe public visibility will be enhanced.
LEGISLATIVE CHANGES
(Continued from Page 1)

III, and provides a misdemeanor penalty of up to 6 months in a county jail for unlawful possession.

SB 1462 (Watson)—Reclassifies gluthemide (Doriden) as a Schedule II controlled substance.

SB 1819 (McCorkodale)—Requires local law enforcement agencies and adult protective services agencies to report known or suspected instances of elder or dependent adult abuse being committed by a licensed health practitioner or a person purporting to be such a licensee. Reports are to be made to the appropriate licensing agency. The bill requires the licensing agency to investigate these reports in light of the potential for physical harm.

AB 2616 (Sebastiani)—Requires the Division of Licensing to consider including a course in the detection and treatment of elder abuse in the continuing education requirements for those licensees whose practices serve elderly patients. Requires the Board to develop and disseminate information periodically on abuse of the elderly.

AB 3060 (Hannigan and Davis)—Requires licensing agencies to require each licensee to provide his or her social security number (or employer identification number if a member of a partnership) at the time of issuance or renewal of a license.

AB 4372 (Isenberg)—Provides for the scope of practice of registered nurses to include the dispensing of drugs or devices, other than controlled substances, upon the order of a physician. Also provides that a nurse practitioner may furnish drugs or devices, other than controlled substances, pursuant to a standardized procedure, under the supervision of a physician. Requires the nurse practitioner to meet specified requirements and acquire a number from the Board of Registered Nursing.

Gluthemide (Doriden)
Now Schedule II Drug

Responding to reports of an increased demand by heroin users for Gluthemide (Doriden), the California Legislature has reclassified this drug as a Schedule II controlled drug. This Schedule II drug requires triplicate prescriptions.

State mental and drug facilities during the past year have noted that the combination of Doriden and a codeine compound (known on the street as “Ds and Cs” or “LOADS”) has been used by narcotic addicts as a stop-gap alternative when heroin was not available.

The following information may be of assistance in closing down your medical practice.

There are no statutes or regulations outlining specific protocols.

The California Medical Association printed an article on this matter to assist physicians retiring from practice. You may want to write to them.

California Medical Association
P.O. Box 7690
San Francisco, CA 94120-7690

You may also want to contact your local county medical society, for any helpful suggestions or brochures.

We suggest you print a notice for mailing to current patients, informing them of your retirement and where they can write for copies of their medical records, if needed.

This notice also should go to the local medical society for future reference because patients usually go there searching for retired physicians and medical records.

There are no statutes dictating how long a physician must keep patient records. However, the customary practice in the medical community is for a physician to maintain patient health records for at least seven years, and, in the case of minor patients, to the age of majority plus one year. There is nothing in the law to prevent a physician from giving the patients their original health records, as opposed to copies.

If you change your address of record now registered with BMQA, you should write and instruct us to register your new address of record.

Are You About to Retire?

If you don’t notify us of your new address... 

YOU WON’T GET A RENEWAL APPLICATION 
or other important information from the Board.
Please write!

Verifications
Board of Medical Quality Assurance
1430 Howe Avenue
Sacramento, CA 95825
BOARD OF MEDICAL QUALITY ASSURANCE
1430 HOWE AVENUE
SACRAMENTO, CA 95825

Executive Office  (916) 920-6393

Physicians and Surgeons:
Applications and Examinations  (916) 920-6411
Chief Medical Consultant  (916) 920-6393
Complaints—Call nearest Regional Office:
  Los Angeles  (213) 412-6363
  Sacramento  (916) 920-6013
  San Mateo  (415) 573-3888
  San Bernardino  (714) 383-4755
Continuing Education  (916) 920-6074
Disciplinary Information  (916) 920-6343
License Renewals  (916) 920-6943
Fictitious Names  (916) 920-6074
Verification of Licenses  (916) 920-6343

Allied Health Professions:
Complaints  (916) 920-6341
Licensing:
  Acupuncture  (916) 924-2642
  Hearing Aid Dispensers  (916) 920-6377
  Physical Therapy  (916) 920-6373
  Physician's Assistant  (916) 924-2626
  Podiatry  (916) 920-6347
  Psychology  (916) 920-6383
  Registered Dispensing Opticians  (916) 924-2612
  Respiratory Care  (916) 924-2314
  Speech Pathology/Audiology  (916) 920-6388