

Action Report

Medical Board of California

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The Board will
consider a plan
to provide
funds to add
investigators,
establish a
reserve and
emphasize cost recovery.

1994-95 ANNUAL REPORT

The Medical
Board's 1994-
95 Annual
Report is
contained in the
insert.

Medical Board of California Meeting Dates/Locations 1995

November 2-3 San Diego

1996

February 2-3 Los Angeles
May 10-11 Sacramento
July 26-27 San Francisco
November 1-2 San Diego

Court Ruling On Peer Review Records

by

Tom Reilly, Deputy Attorney General, Health Quality Enforcement Section

In a major victory for California consumers, the First Appellate District of the California Court of Appeal held on July 7, 1995 that the "peer review privilege" of Evidence Code section 1157 cannot be used to prevent the Medical Board from inspecting documents relevant to an investigation of a physician's unprofessional conduct.

Board President Robert del Junco, M.D. declared, "This decision is very significant in that it reinforces the Medical Board's authority to protect California consumers by thoroughly investigating allegations of physician misconduct regardless of the setting in which they arise. It also reinforces the obligation of California hospitals to cooperate with Medical Board investigators in cases where patient safety is at risk. In recent years, hospitals have often tried to block Medical Board investigations, mistakenly relying on the provisions of section 1157. This decision makes clear that section 1157 was never intended to and cannot be allowed to impede the legitimate investigative work of the board."

The case, known as the Dal Cielo decision after the administrator of the hospital involved, arose from a complaint filed with the board by a confidential informant in 1992. The informant alleged that an anesthesiologist practicing at Alameda Hospital had a narcotic drug habit, was using narcotics from the hospital pharmacy while on call, and was administering anesthesia to patients in surgery while himself under the influence of controlled substances. The board's investigation corroborated some of these allegations and further established that, at the end of 1992, the physician took a three-month leave of absence from the hospital to undergo inpatient drug rehabilitation.

In January 1993, the hospital restored the physician's hospital privileges provided that he practice under certain

supervisory conditions. Though clearly required to do so under Business and Professions Code section 805, the hospital never filed a report regarding this physician's condition with the board. (See *Action Report*, January 1995.)

***"(This decision)
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obligation of
California hospitals to
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Medical Board
investigators in cases
where patient safety is
at risk."***

After responding to a direct inquiry with the information summarized above, the hospital refused to allow the board's investigator to review any complaints or records made by hospital staff regarding the physician's behavior or any documentary evidence collected during or after the hospital's own internal investigation into this matter. The physician, too, refused to cooperate with the board's investigation, declining even to participate in an interview with the board's physician consultant. As a result, it was impossible to ascertain the duration or severity of the physician's drug problem and the existence or the extent of any impairment of his ability to practice medicine.

After exhausting informal efforts to obtain further information, the board served the hospital with a subpoena demanding production of all documents relevant to this physician's drug problem. The hospital refused to produce any of these documents, asserting that Evidence Code section 1157 prohibited their disclosure to the board.

In the Dal Cielo decision, the Court of Appeal held that the hospital's position was mistaken. The legislature enacted section 1157 to protect the peer review process from discovery in medical malpractice litigation. The court ruled that it does not apply to investigations conducted by the Medical Board.

On August 16, 1995 the hospital filed a petition seeking review in the Supreme Court of California. The Supreme Court is expected to decide whether or not to grant review within the next two months.

THE MISSION OF THE MEDICAL BOARD OF CALIFORNIA

The mission of the Medical Board of California is to protect consumers through proper licensing of physicians and surgeons and certain allied health professions and through the vigorous, objective enforcement of the Medical Practice Act.

Annual Report: Reforms Mean Solid Results!

by

Robert del Junco, M.D., President of the Board

Going by the data on enforcement in the Fiscal Year 1994-95 *Annual Report* (this edition's "Insert"), the Medical Board has reached an all-time high in categories across the range of complaints and discipline.

Complaints topped 12,000; complaints from the public were up by over 1,000; yet reports from malpractice insurers and hospital medical staffs were down slightly. At the same time, the proportions of complaints warranting field investigation remained about the same as previous years. This pushed the raw numbers of cases up but the percentage of physicians under some level of scrutiny remains at 2-3 percent.

Discipline, however, which is meted out after due process, reached new heights—the highest number for outright revocations, suspensions, suspensions with probation, probations and now adding new citations and fines and public letters of reprimand. Perhaps more significant was the record number of license surrenders which are not only as effective as revocations but also include admissions of fault or wrongdoing.

Furthermore, the record number of "stipulations" (our parlance for "plea bargaining") shows that the Board's emphasis on resolving patient protection issues without protracted hearings, legal strife and attendant costs to both sides is showing statistical results.

"Bounty hunting", as some critics might charge? Hardly! These figures represent a more aggressive and better-prepared approach to physician discipline than ever before.

Some of you may recall that three years ago the Board was buffeted by media criticism and internal investigations charging neglect. Well, the members of the Board faced those issues squarely, enacted a wide range of reforms, sought and received legislative affirmation and proceeded to operate efficiently and with a renewed spirit of dedication to the public.

This year's *Annual Report* shows real results—and while that may arouse feelings of discomfort in those of you who are

urged, usually by the defense bar, to think, "there but for the grace of God, go I," the fact is the data confirm that we are doing a better, more credible job of weeding out errant physicians whose misdeeds stain the entire profession.



Robert del Junco, M.D.

And these results are accompanied by continuing reinforcement by the Legislature—this year primarily in the form of bills to resolve a legal dispute left by the courts in the Kees decision concerning our Diversion Program and patient protection; to enact new enforcement provisions including controversial changes in the operations of the Board's Division of Medical Quality; and to significantly increase monetary penalties on willful fraud, among other provisions to stiffen regulation of licensing for those

physicians at teaching hospitals temporarily and to regulate for the first time selling out-of-state contact lenses. These new enactments complement our continuing efforts at improvement. We are not letting any grass grow under our feet!

Farewell, Dixon!

At the Board's July meeting, Executive Director Dixon Arnett announced that he accepted an appointment by Governor Wilson to be director of the California Department of Aging. He resigned from his position with the Board on August 31. The members of the Board are very proud of our accomplishments during Dixon's two and one-half year tenure; his hard work and energetic, positive attitude helped bring the Board through some difficult times and direct our

focus and efforts on consumer protection.

***"...the fact is the data confirm that
we are doing a better, more credible job of
weeding out errant physicians whose
misdeeds stain the entire profession."***

From sweeping advances in the Board's Enforcement Program and information disclosure policy, to a revamped medical expert/consultant program, to

technological advancements and beyond, Dixon has proven himself to be a dedicated and visionary public servant. While the changes he brought sometimes spurred controversy, he kept the debate honorable and in perspective. The members of the Board and his staff miss him, and wish him well in his new position.

Expert Reviewer Training Underway

by

C. Fredrick Milkie, M.D., former President and member, Medical Board of California

Alan E. Shumacher, M.D., Vice President; Chair, Medical Quality Committee, Medical Board of California

The Medical Board has begun its formal training of physician expert volunteers (see *Action Reports*, January 1995, April 1995, and July 1995). To date, over 1,200 physicians have submitted applications to the Board, and over 800 have been approved. The one-time, two-hour long training sessions began last July in Glendale, and are continuing statewide (a refresher course is required every four years). Over 250 physicians have completed the course. "I encourage all interested physicians to apply for our program. Board members have received training materials and will be attending training, too," Dr. Shumacher said.



Sacramento-area physicians participate in an expert reviewer training session held at the Medical Board's headquarters on August 22, 1995.

At the training sessions, brief presentations are made by local Board investigators, a Board medical consultant, and a deputy attorney general. Then questions are taken from the audience. Most of the sessions focus on the role of an expert in writing an opinion, and how it is used by the deputy attorneys general who function as the Board's prosecutors in disciplinary cases. Board members and staff have been impressed with the quality of questions, and the interest the participants have in the material.

"The questions came so fast I was unable to write them all down for future training sessions," one Supervising Investigator commented after holding her first training session. "Although we had a script to follow and most of it was covered, it appeared more beneficial to the group to answer questions the physicians posed about the responsibilities of experts."

Expert-trainees consistently have expressed concern about understanding the legal definitions of "incompetence" and "negligence." A physician may demonstrate "incompetence" when he/she does not know how to or does not possess the skill to perform a procedure. "Negligence" may occur when a physician does not employ the knowledge or skill that he/she possesses to perform a procedure. In addition, expert reviewers have wanted a definition of "gross negligence," which is regarded as "an extreme departure from the accepted standard of care." One definition, offered by Deputy Attorney General Kim Bell, is conduct that shocks the conscience, something that demonstrates a callous disregard for patient care.

At the Board meeting in July, Dr. Milkie added to the committee's report, "I was pleased and amazed at the interest shown by the physicians present at the training. It was an

excellent educational experience and the medical community is showing its commitment to a fair and unbiased enforcement process."

We have another 330 recently approved physicians to schedule into classes, and we anticipate that another 500 physicians will have their applications approved by the Board's Committee on Medical Quality by the end of October. By the end

of the year, the Board will have approximately 1,000 expert reviewers to select from for quality of care cases. With the current response rate from the most recent call for experts, the Board should reach its desired goal of 2,000 experts by July 1996.

For additional information, please contact Linda Whitney at (916) 263-2677.

FREE SAMPLES

Let us send you a free copy of our fact-filled brochure for consumers. It contains suggestions about how to select a physician, what to do if you have a problem with your health care, and information about the role and responsibilities of the Medical Board of California.

Write to:
Medical Board of California
1426 Howe Ave., Suite 54
Sacramento, CA
95825-3236

Also available in bundles of 25 copies at \$6. Make check payable to Medical Board of California



Recommended Fee Increase...

At its November 2-3 quarterly meeting the Board will consider a staff proposal designed to accommodate demands for a balanced budget, and to maintain a reserve to meet the increased demands in investigator workload. Previously, the Board and its Division of Medical Quality reviewed the early drafts. The Division of Licensing will hear the proposal on November 2 and make its report November 3. The Board may vote at that time or defer a final decision to its February meeting. Any fee increase proposal requires legislation which, if authorized by the Board, would be considered by the Legislature next year.

The following is an abridgement of a recent memorandum to the Board from Chief of Enforcement John Lancara detailing the overall status of Board finances and particularly the needs of the Enforcement Program. It contains a unique proposal: a modest fee increase to act as a cash advance against enhanced cost recovery with a commensurate reduction in fees when, and as, cost recovery increases.

The future needs of the Board are almost entirely in the enforcement area. In the far future, as technology advances, the need for staffing in the licensing and support services divisions will diminish overall (the lone exception to this general rule will be data processing). And recently the budgetary needs of the Health Quality Enforcement Section of the Attorney General's office have been met. On the other hand, staffing standards in enforcement are behind, yet the number of complaints, revocations, suspensions, probations, new citations and fines, and public letters of reprimand continue to increase, in some cases, geometrically.

MEMORANDUM

INTRODUCTION

The Medical Board has made remarkable strides toward meeting its mission to provide public protection and safety. However, despite the documented performance and public protection improvements over the past two years, that mission objective is not yet achieved. There remain several areas where Medical Board public protection and safety efforts are inadequate. For the most part, these efforts have been restricted due to the Medical Board's limited resources.

PROBLEMS/ISSUES

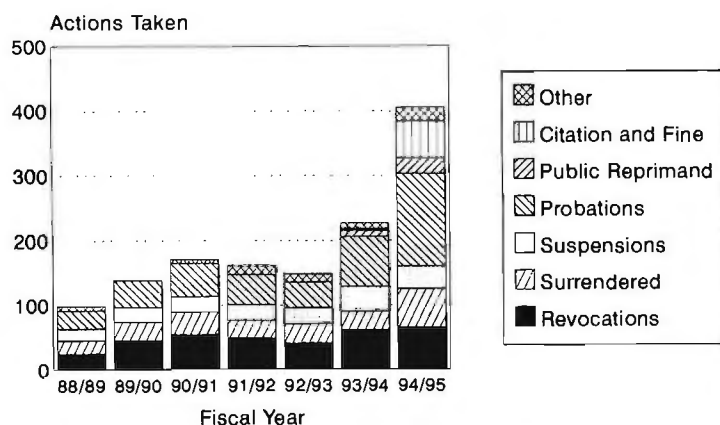
1. Fund Condition: The Medical Board's contingency fund is dangerously low and not in compliance with the minimum two month reserve balance required by law per Section 2435(h) B&P Code. As the Executive Director has indicated in his past two Board meeting fund condition reports, by the 1997/98 fiscal year, the fund will be depleted and show a \$558,000 deficit, even if the Board does not attempt to increase staffing or other expenditures above current levels. To ensure the \$558,000 basic fund requisite, the Board will require a \$12 biennial fee increase per licensee which will provide \$612,000 annually (\$1,224,000 biennially). This assessment level is required in order to avoid a fund deficit and simply remain at a zero balance.

2. Investigator Productivity (Active Cases): Despite increased consumer complaints (with no commensurate increase in investigator staffing), increased case complexity, investigator retention, timely records procurement, etc., investigators can be expected to successfully manage

annually about 25 cases each. The active caseload for MBC investigators is 2,204. Dividing this active statewide caseload of 2,204 by the Board's 69 field investigator positions equals slightly over 32 cases per investigator. Actually, the average is higher (36 per investigator) when one factors the chronic 10% vacancy rate the Enforcement Program has experienced since 1989. In essence, this means that there is currently inadequate staffing to investigate about 479 complaints/cases ($25 \times 69 = 1,725$; therefore, $2,204 - 1,725 = 479$ cases). At 25 cases per investigator, these 479 cases equate to 19 field investigator positions which is a budget increase of \$1,140,000 annually (\$2,280,000 biennially), or, \$23 biennial fee increase per licensee (over the existing \$600 biennial license fee). In addition to investigative staff, an additional computer support position for the Board's Data Processing Unit is required to ensure adequate support for the additional

OUTPUTS

Disciplinary Actions Taken



Disciplinary actions taken against licenses by type of action.
Total actions taken reached a record high in '94-95.

...“Cash Advance” Against Cost Recovery

investigative staff and increased enforcement programs. One data processing support staff equates to a budget increase of \$50,000 annually (\$100,000 biennially), or, \$1 biennial fee increase. To meet the total investigator productivity requirement, a budget increase of \$1,190,000 annually (\$2,380,000 biennially) is required. This funding level can be met through a \$24 biennial fee increase per licensee.

3. Investigator Productivity (Attorney General Cases):

The need for 19 additional investigators is a conservative figure that does not take into account the additional AG cases (11 per investigator) which require investigators to provide supplemental investigative work, court testimony and direct AG hearing assistance. In fact, to make an important point, when one calculates the additional 11 AG cases per investigator (or 759 statewide), the real average investigator caseload is 48 cases per investigator. Or, in other words, at 25 hours per AG case, the 759 AG cases equate to 11 field investigator positions which is a budget increase of \$660,000 annually (\$1,320,000 biennially). This funding requirement can be met with a \$13 biennial fee increase per licensee (over the existing \$600 biennial license fee).

4. Full Fund Condition:

Commensurate with the projected deficit by the 1997/98 fiscal year, the Medical Board contingency fund will be depleted. Replenishing the contingency fund to its historical level (one-month reserve) will require \$2.6 million annually (\$5.2 million biennially). The \$5.2 million level can be attained through a \$51 biennial fee increase per licensee. NOTE: This one-month reserve projection does not meet the legal requirements for a two-month reserve; however, a one-month reserve has been historical.

COST RECOVERY

Cost recovery from disciplined physicians, as recommended by the State Auditor, is our best option because it requires violators to pay directly for their misdeeds and disciplinary costs rather than the vast majority of licensed physicians who practice honestly and competently and are never subject to disciplinary action or induce Board costs.

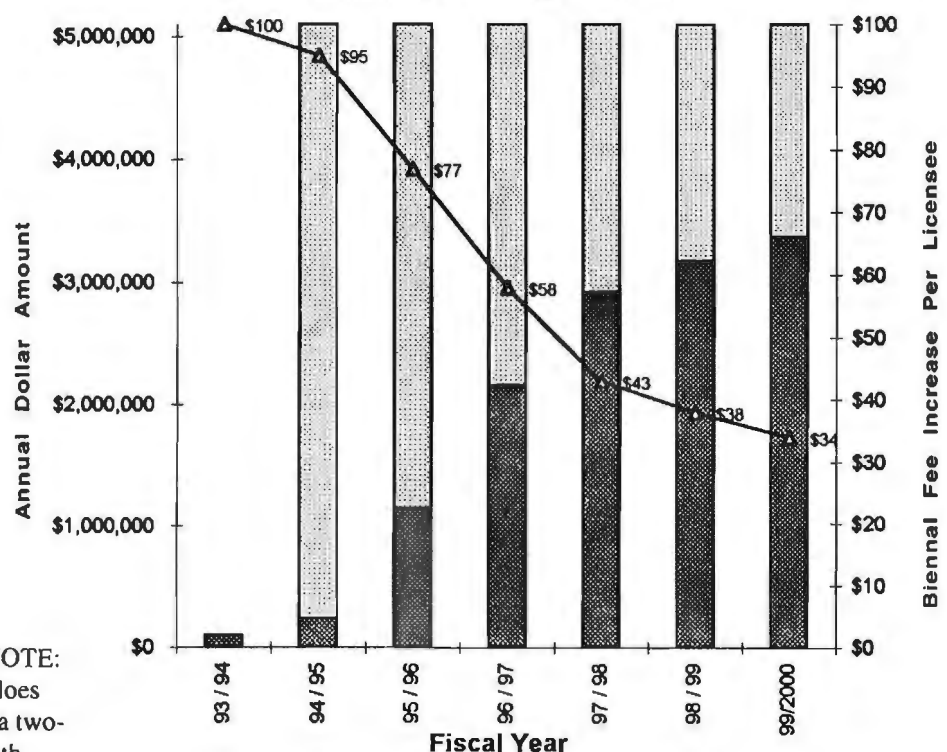
Actual cost recovery began in 1993/94 fiscal year which was the first year the Enforcement Program took meaningful and routine cost recovery action in its stipulated decisions. In the 1994/95 fiscal year, the Enforcement Program became even more aggressive (not to mention the contributions from the new cite and fine disciplinary option, implemented in May 1994).

Greater cost recovery is likely when the Office of Administrative Hearings finally begins to order reasonable investigation and enforcement costs from physicians who have committed violations pursuant to the Medical Practice Act.

Further, if section 125.3 Business & Professions Code is amended (as recommended by the State Auditor) to allow an

See “Program Assessment” (Cont. on p. 6)

Potential Funding Alternatives



■ Annual Fee Increase Revenue
 ■ Cost Recovery Ordered
 ▲ Biennial Fee Increase Per Licensee

Modest fee increase combined with cost recovery dollars provides \$5,100,000 to meet the four requirements of the fund. Fee increase provides immediate relief to MBC fund, and cost recovery provides long-term, stable solvency, and can (by law) dictate the level of license fee reduction.

Program Assessment (Cont. from p. 5)

Administrative Law Judge to order the costs of the actual hearing in addition to the costs of investigation and pre-hearing case preparation, there will be a remarkable increase in recovering Medical Board operational expenditures. The chart reflects this anticipated cost recovery increase beginning 1-1-97 (when actual hearing costs become a factor).

The Board can reasonably expect to recover costs in excess of \$3 million annually. Some of the cost recovery sources include case settlements, ALJ proposed decisions, competency examinations, and citations & fine.

TEMPORARY FEE INCREASE

Unfortunately, the cost recovery described above is not instantaneous and it may be three years until the reasonable cost recovery expectation can be met. In the interim, to meet the immediate and pressing fiscal requirements of the Medical Board, there is a need for action to provide temporary relief which ensures public protection and safety are not interrupted. Further, despite management's vigorous pursuit of alternatives to avoid increased staffing, the simple truth is this: without more investigators, the amount of time it takes to investigate a case remains unacceptable and beyond the statutory limit required by law.

Currently, the Medical Board licensing fee is \$600 biennially (or \$300 annually). Combining the four assessment amounts (\$12 to avoid a deficit in the MBC contingency fund; \$13 to meet the AG's case workload; \$24 to meet the current investigation workload; and \$51 to meet the historical one month contingency fund reserve) yields a total program assessment of \$100 biennial fee increase per licensee. This

\$100 amount equates to \$10,200,000 biennially, or \$5,100,000 annually. But the expected increase in cost recovery orders can offset the program assessment in future years so that the biennial assessment placed on licensees may be reduced from \$100 to approximately \$34 by the 1999/2000 fiscal year. Importantly, if cost recovery amounts exceed the projected \$3.3 million, the biennial assessment would be further reduced below the \$34 biennial amount, eventually reducing this assessment to zero, and returning the biennial license fee to the current \$600 license fee level. Also, if cost recovery continues to increase beyond the \$5.1 million annual level needed to meet the funding requirement of the Board, additional license fee reductions can be implemented. NOTE: The State Auditor projected \$9.4 million, although we do not agree that this full amount is attainable.

RECOMMENDATIONS

1. **Vigorously pursue cost recovery.** This proposal has already been approved by the Medical Board, but, to guarantee success, it is incumbent that Board staff ensure outside agencies such as the Office of Administrative Hearings perform their duties responsibly and order cost recovery pursuant to section 125.3 Business & Professions Code.

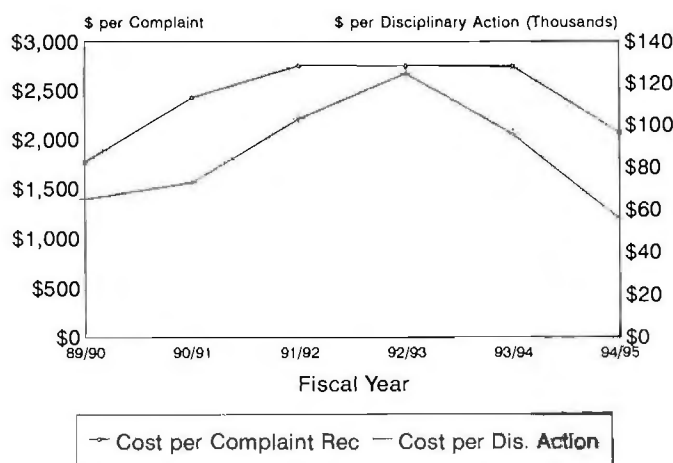
2. Although the Board's central complaint unit and field offices already apply common sense priority judgments as cases are processed, the **formal priority system** adopted by the Board in May 1995 can dramatically further reduce cases which the Board investigates. This may be a viable option whose time is come if cost recovery or temporary fee increase efforts prove unsuccessful.

3. Although vigorous pursuit of cost recovery is already underway by the Enforcement Program, it is still not enough to avoid the immediate fiscal problems facing the Board. Hence, a **reasonable temporary fee assessment** needs to be pursued in fiscal year 1995/96 (effective in 1996/97) to remain financially solvent for the short term.

4. However, to make this assessment fair this temporary fee increase should be rolled back to the reassessment level when the actual cost recovery expectations reach the range needed to cover any temporary license fee increase and **automatically adjusted downward annually** thereafter in proportion to the actual dollars collected from cost recovery. (From a long term perspective, if cost recovery collection proves successful, as expected, the Medical Board should consider future licensing fee reductions, which are commensurate with the operational costs actually recovered from violators disciplined by Board.)

RATIOS

Enforcement Cost per: Complaint/Discipline



Allocation of total enforcement costs over complaints and over disciplinary actions. The average cost peaked '92-'93 and has declined since then.

Major Changes in Board Membership

Four Senior Members Retire; A Total of 32 Years of Service



Ray Mallel and C. Fredrick Milkie, M.D. presented Senate resolutions to each other as they retired from the Medical Board. Mr. Mallel, appointed to one term by Governor Jerry Brown and two terms by former President Pro Tem David Roberti, served a total of 12 years. Dr. Milkie served eight years on the Board, originally appointed by Governor Deukmejian and reappointed by Governor Wilson.



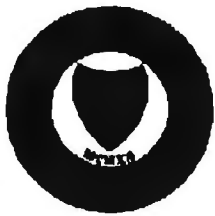
Board President Robert del Junco, M.D. (right) presented an Assembly Resolution to retiring Board member Clarence Avery, M.D. Appointed by Governor Wilson, Dr. Avery served for four years on the Board.



Former Executive Director Dixon Arnett swears Board members Carole Hurvitz, M.D. and Raja Toke, M.D. to a second term.



Gayle Wilson Nathanson, appointed by former Assembly Speaker Willie Brown, retired after eight years of service to the Board.



THE FEDERATION OF
STATE MEDICAL BOARDS
OF THE UNITED STATES, INC.
(817) 868-4000

California Physician Alert

May 18, 1995

James S. Todd, MD
Executive Vice President
American Medical Association
515 North State Street
Chicago, IL 60610

Robert Draba, DO
Executive Director
American Osteopathic Association
142 E. Ontario
Chicago, IL 60611

Dear Drs. Todd and Draba:

On March 10, 1995, I had the opportunity to meet in Mexico City with Mexican government officials responsible for medical regulation, licensure, and medical education. The purpose of the meeting was to exchange information regarding the processes of medical licensure, discipline, and regulation of physicians in the United States and Mexico.

The parties expressed concern regarding the influx of American medical students and physicians on humanitarian missions into Mexico to provide medical treatment to Mexican citizens in rural and underserved areas. Of major concern to health officials is the lack of preoperative and postoperative care afforded to these patients. Additionally, there is no assurance that these American providers are appropriately trained in the areas in which they provide treatment.

Not unlike the United States, Mexico has processes and standards in place to license domestic physicians and to evaluate foreign educated physicians wishing to practice in Mexico. **American physicians wishing to provide their services in Mexico, humanitarian or otherwise, must make prior application to the Mexican government through the Office of Regulation of Health Services.** As in the United States, it is the primary responsibility of those charged with medical regulation in Mexico to protect the populace by insuring the delivery of health care services by qualified and properly trained physicians.

By this letter, I am requesting your assistance in advising American physicians that appropriate procedures must be followed prior to entering Mexico to provide medical and/or surgical treatments. It should be noted that harsh penalties exist in Mexico for practicing medicine without prior permission issued by the appropriate governmental authorities.

Your attention and assistance in disseminating this information to your respective memberships is appreciated. Please contact me if I can provide additional information in this matter.

Sincerely,

James R. Winn, MD
Executive Vice President

cc: Dr. Hector Fernandez Varela Mejia
Director General Direccion General de Regulacion de los Servicios de Salud
Av. Insurgentes Sur 1397-3er. Piso, Mexico, DF, Mexico 03920
Tels. 011-525 583 51 46 Fax: 598 17 82
598 98 84
598 98 93

Guidelines for Preventing the Transmission of Blood-Borne Pathogens in Health Care Settings

The California Department of Health Services has prepared the following guidelines for all health care workers to assist in preventing transmission of infectious diseases among workers, patients and others. These guidelines were developed in response to the Patient Protection Act of 1991, and to federal requirements that states adopt guidelines equivalent to the U.S. Centers for Disease Control and Prevention recommendations for preventing transmission of HIV and HBV.

GUIDELINES

Infection Control and Immunization

1. All health care workers¹ should rigorously adhere to the 1987 and 1988 CDC² infection control guidelines, and the 1991 OSHA³ standards, including HBV⁴ vaccination and the use of universal precautions in all health care settings. Health care workers with exudative lesions or weeping dermatitis should refrain from direct patient care or handling patient-care equipment until the condition is resolved.
2. All health care workers and health care settings should use the best available method to ensure that each patient is treated with sterile or properly disinfected equipment, devices and instruments.
3. Adherence to proper infection control procedures, including vaccinations as indicated, is a minimum standard of care. All health care facilities should monitor employees' adherence to these procedures. Licensed professionals who fail to practice proper infection control should be subject to charges of professional misconduct and disciplinary action.
4. As part of the accreditation process, professional schools should develop and periodically update guidelines for the infection control curricula.
5. Periodic infection control training should be a condition of certification, licensure and relicensure for all health care workers.
6. In accordance with OSHA standards, all employers of health care workers and trainees must offer HBV vaccination to those employees who are likely to be exposed to blood or other potentially infectious materials.

Testing

7. Current assessment of the risk of transmission of HIV between health care workers and patients does not support a mandatory testing program for either health care workers or patients. Health care workers and patients who may have been exposed to blood-borne pathogens through personal risk behaviors, blood products, or occupational accidents are encouraged to seek counseling and testing in order to benefit from medical management. Employers of health care workers should follow OSHA standards for post-exposure evaluation and follow-up of health care workers exposed via occupational accidents.

Restriction of Practice

8. Because of the low risk of transmission of HBV and HIV from health care workers to patients, general restriction of the

practices of infected health care workers would not offer a significant increase in patient protection and is not recommended. However, there may be certain stages of disease or a combination of other factors that may place patients and/or health care workers at elevated risk. For example, health care workers with advanced HIV infection are at increased risk for occupationally acquiring diseases such as measles and tuberculosis. Individual health care workers and their personal physicians should review the health care worker's practices and modify any practices that may place a patient or the health care worker at risk of infection. The appropriateness of any such restrictions can be reviewed by expert review panels convened by the Department of Health Services. The Department will develop guidelines for the structure and function of these expert review panels.

9. The State and professional organizations should facilitate job counseling and retraining services for infected health care workers who can no longer work in their field.

Notification and Informed Consent

10. In accordance with CDC guidelines, health care workers engaging in procedures or practices that place their patients at substantial risk of infection should consult with an expert review panel concerning their responsibility to disclose their serostatus to their patients prior to performing such procedures.
11. In the absence of a documented exposure incident, the Department of Health Services does not recommend routine post-treatment notification of patients treated by infected health care workers.
12. In accordance with CDC guidelines, health care workers should notify patients in a timely manner when the health care worker's body fluid comes in contact with the patient parenterally or with their mucous membranes, regardless of the health care worker's infection status. Patients and their physicians may then make informed decisions regarding their own testing, prevention and treatment options.

¹ A "health care worker" is any person, including a student or trainee, whose activities involve contact with patients or with blood or other body fluids from patients in a health care setting.

² CDC: Center for Disease Control

³ OSHA: [Federal] Occupational Safety and Health Administration

⁴ HBV: Hepatitis B Virus

Disciplinary Actions: May 1, 1995 to July 31, 1995

Decisions: Physicians and Surgeons

ARONOFF, RONALD G., M.D. (G-60761) Olympia, WA

B&P Code §2305. Stipulated Decision. Restriction by Washington state board because of head injuries from auto accident diminishing ability to practice safely. California: Revoked, stayed, 3 years' probation on terms and conditions. May 12, 1995

AGBEBIYI, JONATHAN A., M.D. (G-46725) Corpus Christi, TX

B&P Code §2305. Stipulated Decision. Discipline by Arizona Board for OB-GYN practice that was harmful or dangerous to patients. California: Revoked, stayed, 5 years' probation on terms and conditions. June 30, 1995

AHLES, PETER A., M.D. (C-29552) Anaheim, CA

B&P Code §§2239, 822, 2240. Stipulated Decision. Alcohol abuse. 3 years' suspension, stayed, 3 years' probation on terms and conditions. July 20, 1995

BLESA, MARTA IRENE, M.D. (A-31530) Temple City, CA

B&P Code §§725, 2242, 2236. Stipulated Decision. Conviction for illegally prescribing controlled substances without a legitimate medical purpose. Excessive prescribing without prior exam and medical indication. Revoked, stayed, 5 years' probation on terms and conditions. May 19, 1995

BAHOU, KAMIL EMIL, M.D. (A-29428) Pasadena, CA

B&P Code §§2239, 2242, 2238, 725, 2261. Stipulated Decision. History of self-abuse of drugs, particularly Darvon. Excessive prescribing, false prescriptions. Revoked, stayed, 5 years' probation on terms and conditions, including 30 days' actual suspension. June 2, 1995

BAKER, HERBERT M., M.D. (A-18047) Beverly Hills, CA

B&P Code §2305. Discipline by North Carolina Board for questionable prescribing practices, and for lack of complete documentation in patient charts. California: Revoked. Default. June 2, 1995

BLASQUEZ, JAIME, M.D. (A-21843) Chino, CA

B&P Code §2305. Stipulated Decision. Disciplines by Ohio Board and Missouri Board for failing to disclose both a) a 1982 conviction for Medi-Cal fraud; and b) a discipline by the California Board for that Medi-Cal conviction. Revoked, stayed, 5 years' probation on terms and conditions, including 30 days' actual suspension. July 20, 1995

BROD, THOMAS M., M.D. (G-20595) Los Angeles, CA

B&P Code §2234(c). Stipulated Decision. Repeated negligent acts in failing to maintain appropriate professional boundaries with a psychiatric patient. Revoked, stayed, 2 years' probation on terms and conditions. February 3, 1995

CHAN, CHUN CHUNG, M.D. (A-30506) Madera, CA

B&P Code §2234(b)(c) Stipulated Decision. Gross negligence and repeated negligent acts in mismanaging an 11 year-old boy with pediatric dehydration problems that worsened to cardiac arrest and brain damage. Revoked, stayed, 5 years' probation on terms and conditions. July 27, 1995

CHEIN, EDMUND Y.M., M.D. (A-38678) Beverly Hills, CA

B&P Code §§651, 2271, 2285. Stipulated Decision. False advertisement in his brochure that he is a "physician-lawyer" (never licensed as a lawyer anywhere). Practiced under a fictitious name without first registering and getting a fictitious name permit from the Medical Board. Revoked, stayed, 3 years' probation on terms and conditions. June 30, 1995

CORBIN, FREDERIC H., M.D. (G-41325) Los Angeles, CA

B&P Code §§2234(e), 2261. To accommodate a patient, office manager backdated insurance claim falsely showing an earlier surgery date so as not to be beyond the policy period. When M.D. learned of falsification and inquiries from carrier, he became angry and upset, but then joined the cover-up to protect his manager by writing false letters to confirm the fiction. 2 years' probation on terms and conditions. June 23, 1995

DANIELS, EDWARD M., M.D. (GFE-3170) Brookline, MA

B&P Code §2305. Disciplined by Massachusetts Board for sexual relations with female patients for psychotherapy. Revoked. Default. May 4, 1995

DAVIS, FREDERICK B., M.D. (C-29811) Seattle, WA

B&P Code §2305. Stipulated Decision. Discipline by Washington State Board for improperly performing, in 2 separate cases, defense psychiatric evaluations of 2 minors alleged to be sexually abused by their fathers. California: Revoked, stayed, 5 years' probation on terms and conditions. July 10, 1995

DEVLIN, LEO B., M.D. (A-20664) La Quinta, CA

B&P Code §2234(b)(c). Stipulated Decision. Gross negligence and repeated negligent acts by an anesthesiologist in mismanaging a breast augmentation surgical patient in the recovery room. He administered an unknown amount of additional Fentanyl, failed to record the Fentanyl administration, and failed to insure the patient was properly monitored in recovery. Agrees to place license on inactive status. If activated, revoked, stayed, 5 years' probation on terms and conditions. May 18, 1995

DIMAPILIS, APOLONIO R., M.D. (A-21879) San Francisco, CA

B&P Code §810. Engaged in a series of fraudulent billings for fictitious treatment sessions for accident cases, to defraud insurance companies. Revoked. Default. May 15, 1995

DOAN, PHUNG VAN, M.D. (A-36655) San Jose, CA

B&P Code §2234(c). Stipulated Decision. A 29 year-old developmentally disabled patient was severely beaten and stabbed by a psychiatric tech at a state facility. Repeated negligent acts for not recognizing and treating classic shock syndrome and for not probing the depth of the knife wounds. Patient died from stab wounds and blunt abdominal trauma. Revoked, stayed, 5 years' probation on terms and conditions. June 9, 1995

FARMER, ROBERT A., M.D. (C-38732) Vacaville, CA

B&P Code §§2234(b), 726, 729. Sexual misconduct, gross negligence, and repeated negligent acts in psychotherapy practice. Revoked. June 12, 1995

FREEMAN, TERRY M., M.D. (AFE-29863) Redondo Beach, CA

B&P Code §822. Stipulated Decision. Severe injuries from head-on auto collision. Impairment affecting safe medical practice. Revoked, stayed, 5 years' probation on terms and conditions. June 15, 1995

GANTI, SHASHI DHAR, M.D. (A-38830) Pasadena, CA

B&P Code §§726, 2234(b)(e), 2238, H&S 11153. Gross negligence in the inadequate ophthalmic examination and care of a female patient with an eye infection; and in recommending radial keratotomy before the infection was cleared up. Furnished Halcion to that patient without a legitimate medical purpose, and then made a house call and sexually mauled patient who was limp and helpless from taking 2 of the .25 mg. Halcion tablets as ordered. Revoked. June 12, 1995

GODWIN, JAMES, M.D. (C-25224) Stockton, CA

B&P Code §§2239, 2305. Clinical privileges revoked by U.S. Navy based on impairment from alcohol abuse. Participated in numerous recovery programs. Is still unable to remain sober for any significant length of time. Revoked. July 21, 1995

GREGURICH, JOSEPH N., M.D. (G-20621) Santa Ana, CA

B&P Code §2236. Stipulated Decision. Conviction for prescribing a controlled substance without a legitimate medical purpose; for failing to maintain records on Schedule III drugs; and for unlawfully dispensing Schedule III drugs in a mislabeled container. Revoked, stayed, 7 years' probation on terms and conditions, including 180 days' actual suspension. July 12, 1995

HABENICHT, JAMES C., M.D. (G-14723) Oakdale, CA
B&P Code §§2236, 2237, 2242. Conviction for prescribing controlled substances without legitimate medical purpose; and for falsification of medical records. Prior disciplines. Revoked. Default. May 1, 1995

HALIL, SAIHB SINUHE, M.D. (A-39348) Mayaguez, Puerto Rico
B&P Code §§2234(b)(c)(d)(e), 726. Numerous deficiencies in mismanaged abortions, constituting gross negligence, incompetence, and repeated acts of negligence. Also, sexual misconduct and dishonesty. Revoked. July 10, 1995

HERBST, ROBERT WILLIAM, M.D. (G-29531) Poway, CA
B&P Code §2236. Stipulated Decision. Conviction for obtaining controlled drugs by fraud. History of drug abuse of Hydrocodone. Revoked, stayed, 5 years' probation on terms and conditions, including 45 days' actual suspension. June 1, 1995

IACULLO, ROBERT LEWIS, M.D. (C-41193) Marina Del Ray, CA
B&P Code §§2234(e), 2261. In failing to use his lawful name, he made a false application for medical license. In using in practice a name other than the name on his license, he represented himself to the public and patients in a dishonest way. 90-day suspensions, to run concurrently. June 22, 1995

IYENGAR, SRIDHARA K., M.D. (C-42391) Fountain Valley, CA
B&P Code §2234. Stipulated Decision. Engaged in unprofessional conduct by forcing unwanted familiarities on 2 female staff members at Anaheim Memorial Hospital in 1991 and 1992. Revoked, stayed, 5 years' probation on terms and conditions. June 16, 1995

KERENDI, FAROUKH, M.D. (A-40018) Tarzana, CA
B&P Code §§2234(b)(c)(d). Stipulated Decision. While providing medical treatment to elderly patients, engaged in gross negligence, repeated negligent acts and incompetence in authorizing elective surgery when medical fitness for surgery not resolved. 1 year suspension, stayed, 5 years' probation on terms and conditions. June 15, 1995

KIDD, MATTHEW C., M.D. (G-37237) Lisbon, ND
B&P Code §2305. Discipline by North Dakota Board for inappropriate use of injectable antibiotics and steroids for elderly patients, rather than oral medications; and inadequate patient records to support diagnoses. California: Revoked, stayed, 5 years' probation on terms and conditions, except probation may be terminated early. May 26, 1995

KINTANAR, AGNES, M.D. (A-38376) Walnut Creek or Los Angeles, CA
B&P Code §§2234(b)(c)(d)(e), 2264, 810. Stipulated Decision. Insurance

fraud; false reports and double billings for physical therapy in auto accident case. Aided and abetted unlicensed help to engage in physical therapy. Improper emergency referral of patient with potentially severe abortion complications. Failed to act promptly upon a patient's symptoms of pre-eclampsia. Gross negligence, repeated acts of negligence, incompetence, dishonesty. Revoked, stayed, 7 years' probation on terms and conditions, including 120 days' actual suspension. June 29, 1995

KITT, VICTOR V., M.D. (C-41263) Bakersfield, CA
B&P Code §§2234(b)(c)(d). Stipulated Decision. Gross negligence, incompetence, repeated negligent acts in the management and performance of cosmetic surgeries. Revoked, stayed, 5 years' probation on terms and conditions. May 1, 1995

LAW, CHARLES E., JR., M.D. (G-20667) Los Angeles, CA
B&P Code §§2234(b)(d). Stipulated Decision. Gross negligence and incompetence in failing on repeated occasions to maintain adequate and complete records on 4 patients. Revoked, stayed, 5 years' probation on terms and conditions. July 8, 1995

LEUPP, MONTY G., M.D. (G-38001) San Diego, CA
B&P Code §§2239, 2354. Stipulated Decision. Abuse of alcohol and drugs. Unsuccessfully terminated from the Board's Diversion Program for noncompliance. 3 convictions for driving under the influence of alcohol/drugs. Sober past 3 1/2 years. Revoked, stayed, 5 years' probation on terms and conditions. May 27, 1995

LEVIN, EMIL, M.D. (A-36761) Los Angeles, CA
B&P Code §§2234(b)(e)(d), 725, 2261, 2262, 810. Stipulated Decision. Gross negligence, repeated negligent acts and incompetence in the care of a patient with a sore knee. Unnecessary and excessive diagnostic procedures, including hair analysis. False medical records. Revoked, stayed, 5 years' probation on terms and conditions. July 21, 1995

LIM, DANIEL, M.D. (CFE-41398) Highlands Ranch, CO
B&P Code §2305. Stipulated Decision. Restriction of privileges of military doctor by the U.S. Army related to a laparoscopic incident. Public Reprimand. July 22, 1995

LIM, KHENG BEE, M.D. (A-39726) New Smyrna Beach, FL
B&P Code §2305. Discipline by Florida involving anesthesiology practice. California: Reprimand. May 18, 1995

LOPEZ, STEVEN H., M.D. (G-53913) Fresno, CA
B&P Code §§490, 2236, 2238, 2239. Convictions for driving a vehicle with

Explanation of Disciplinary Language

1. **"Revoked"**— The license is canceled, voided, annulled, rescinded. The right to practice is ended.
2. **"Revoked - Default"**— After valid service of the Accusation (formal charges), the licensee fails to file the required response or fails to appear at the hearing. The license is forfeited through inaction.
3. **"Revoked, stayed, 5 years' probation on terms and conditions, including 60 days' suspension"**— "Stayed" means the revocation is postponed, put off. Professional practice may continue so long as the licensee complies with specified probationary terms and conditions, which, in this example, includes 60 days' actual suspension from practice. Violation of probation may result in the revocation that was postponed.
4. **"Suspension from practice"**— The licensee is benched and prohibited from practicing for a specific period of time.
5. **"Temporary Restraining Order"**— A TRO is issued by a Superior Court Judge to halt practice immediately. When issued by an Administrative Law Judge, it is called an ISO (Interim Suspension Order).
6. **"Probationary Terms and Conditions"**— Examples: Complete a clinical training program. Take educational courses in specified subjects. Take a course in Ethics. Pass an oral clinical exam. Abstain from alcohol and drugs. Undergo psychotherapy or medical treatment. Surrender your DEA drug permit. Provide free services to a community facility.
7. **"Gross negligence"**— An extreme deviation from the standard of practice.
8. **"Incompetence"**— Lack of knowledge or skills in discharging professional obligations.
9. **"Stipulated Decision"**— A form of plea bargaining. The case is negotiated and settled prior to trial.
10. **"Voluntary Surrender"**— Resignation under a cloud. While charges are pending, the licensee turns in the license — subject to acceptance by the relevant Board.
11. **"Probationary License"**— A conditional license issued to an applicant on probationary terms and conditions. This is done when good cause exists for denial of the license application.
12. **"Effective date of Decision"**— Example: "July 8, 1994" at the bottom of the summary means the date the disciplinary decision goes into operation.
13. **"Judicial Review recently completed"**— The disciplinary decision was challenged through the court system—Superior Court, maybe Court of Appeal, maybe State Supreme Court—and the discipline was upheld. This notation explains, for example, why a case effective "October 10, 1991" is finally being reported for the first time four years later in 1995.

a blood alcohol level exceeding the permissible statutory limit; conviction for urinating in public; unlawful use of alcohol; unlawful possession of cocaine. Revoked. Default. June 14, 1995

MANGLA, JAGDISH CHAND, M.D. (A-32612) Pittsford, NY
B&P Code §2305. Disciplined by New York Board for psychiatric condition impairing ability to practice. California: Revoked. Default. July 8, 1995

MAJOR, BENJAMIN, M.D. (C-14928) Kensington, CA
B&P Code §§650, 2285, 2286. Stipulated Decision. Aided and abetted unlicensed practice of medicine by working for lay owner of a medical clinic. Engaged in unlawful fee splitting. Filed false applications for fictitious name permits on behalf of the lay owner. Suspension for 3 years, stayed, 3 years' probation on terms and conditions, including cooperation with Board's investigation of this lay person and his various medical enterprises for court action. May 27, 1995

MARON, BARRY R., M.D. (G-16120) Albuquerque, NM
B&P Code §2305. Arizona order restricting resumption of practice with preconditions, such as psychiatric evaluation for safe practice. California: Revoked, stayed, 5 years' probation on terms and conditions. May 19, 1995

MATSUMURA, BEN, M.D. (A-21780) Los Angeles, CA
B&P Code §§490, 725, 2236, 2242, 2238, 2234(b)(c)(d), 2052, 2261. Stipulated Decision. Conviction for excessive prescribing, and prescribing without prior good faith exam and medical indication, in connection with a weight control practice. When dispensing drugs in office, failed to offer the patient the option of a written prescription, as required by the Pharmacy Act, B&P 4051.1. Failed to fulfill all labeling requirements for dispensing drugs in office (B&P 4047.5). Continued to practice with an expired license, 3 years delinquent. Made false statements in drug order forms that he held an active, current license. Revoked, stayed, 5 years' probation on terms and conditions. June 2, 1995

MEHRKHAH, HASSAN M., M.D. (C-39147) Hemet, CA
B&P Code §726. Sexual assault on female patient. Revoked. Default. May 19, 1995

MOGLEN, LESLIE J., M.D. (C-29434) San Francisco, CA
B&P Code §§2285, 2286. Stipulated Decision. Aided and abetted the unlicensed corporate practice of medicine. Filed false applications for fictitious name permits. Prior discipline. Prior probation extended 3 years to May 29, 2003. Subject to terms and conditions, including truthful cooperation in the investigation of the lay owner and his various medical enterprises. June 2, 1995

MOZULAY, MARK JOSEPH, M.D. (G-75409) Alexandria, VA
B&P Code §2305. Discipline by New Jersey Board for intermittent cocaine use. California: Revoked. Default. June 2, 1995

SAGHERIAN, ARTIN A., M.D. (A-36349) Glendale, CA
B&P Code §2264. Stipulated Decision. Aided and abetted an unlicensed person in the practice of physical therapy. 60 days' suspension, stayed, 3 years' probation on terms and conditions. May 18, 1995

SALEH, WALEED A., M.D. (A-30256) Olean, NY
B&P Code §2305. Discipline by New York Board for ordering excessive tests, treatment or use of treatment facilities in OB-GYN practice not warranted by the condition of patients. California: Revoked, stayed, 5 years' probation on terms and conditions. July 24, 1995

SAMI, IQBAL, M.D. (A-30495) Santa Ana, CA
B&P Code §§725, 2234(b)(c)(d)(e), 2242. Stipulated Decision. Gross negligence, repeated negligent acts and incompetence in orthopedic practice. Excessive prescribing without good faith prior exam and medical indication. Revoked, stayed, 5 years' probation on terms and conditions, including 60 days' actual suspension. June 15, 1995

SARGENT, ROBERT A., M.D. (G-19908) Littleton, CO
B&P Code §2305. Discipline by Colorado Board for barbiturate abuse

(Seconal). California: Revoked, stayed, 5 years' probation on terms and conditions. June 5, 1995

SCHROEDER, JOHN R., M.D. (C-26641) San Dimas, CA
B&P Code §822. Stipulated Decision. Ability to practice safely impaired by mental illness. 1 year suspension, stayed, 5 years' probation on terms and conditions. June 26, 1995

SHAW, RICHARD K., M.D. (G-6621) Atwater, CA
B&P Code §§2236, 2239. Convictions for driving under the influence of alcohol. Revoked. Default. July 21, 1995

SHIRAZI, FEREYDOUNE F., M.D. (A-32132) Tarzana, CA
B&P Code §2234(c). Stipulated Decision. Repeated negligent acts in the care of 5 orthopedic surgery cases (spinal and orthoscopic knee surgeries). Revoked, stayed, 5 years' probation on terms and conditions. June 9, 1995

SHOVLIN, PATRICIA M., M.D. (G-54902) Pinole, CA
B&P Code §§2234(e), 2236. Stipulated Decision. Conviction based upon her repeated practice of fraudulently ordering prescriptions for injectable Demerol from pharmacies for her personal use. Revoked, stayed, 8 years' probation on terms and conditions, including 60 days' actual suspension. May 1, 1995

SILVA, ENRIQUETA, M.D. (A-36275) Santa Ana, CA
B&P Code §§2234(a), 2289, 2264, 490, 2236, 2052. In 1991, placed on Board probation for aiding and abetting her unlicensed husband to use her license and her clinic to practice medicine illegally. (Husband licensed in Mexico, but not in California.) Violated probation by allowing her husband to continue to practice medicine in her clinic unlawfully. Conviction for aiding and abetting husband's unlicensed practice. Revoked. June 5, 1995

SPRINGER, MARTIN F., M.D. (G-57322) Vacaville, CA
B&P Code §2236. Stipulated Decision. Conviction for sexual battery. Revoked, stayed, 5 years' probation on terms and conditions. June 16, 1995

STANTON, FRANK A., M.D. (G-13030) Poulsbo, WA
B&P Code §2234. Stipulated Decision. Unprofessional conduct for a psychiatrist to lie on the bed with a female patient even though nothing of a sexual nature occurred. Revoked, stayed, 5 years' probation on terms and conditions. June 14, 1995

STEVENS, MILDRED L., M.D. (C-12607) Garnett, KS
B&P Code §2305. Discipline by Kansas Board related to incompetence in obstetrical practice. California: Revoked. Default. July 31, 1995

TAYLOR, DARYL C., M.D. (G-30743) Santa Maria, CA
B&P Code §2305. Discipline by Washington State Board related to alcohol problem. California: Revoked, stayed, 10 years' probation on terms and conditions. May 27, 1995

TAYLOR, PHILLIP H., M.D. (G-12336) Thousand Oaks, CA
B&P Code §2234(c). Stipulated Decision. Repeated negligent acts in care of a single elderly psychiatric patient in that he failed to document physical exam, failed to obtain medical history, employed deficient record keeping of treatment. 6 months' suspension, stayed, 3 years' probation on terms and conditions. July 12, 1995

THORNE, ROGER, M.D. (G-37446) La Jolla, CA
B&P Code §§2239, 2236. Stipulated Decision. Felony conviction of drunk driving involving serious injuries to 2 police officers. Jail time. Revoked, stayed, 3 years' probation on terms and conditions. July 10, 1995

TRUJILLO, MARTIN, M.D. (G-32674) Oxnard, CA
Violated probationary conditions of prior discipline. 1 year actual suspension. Then, 5 years' probation on terms and conditions. April 26, 1995

VALENTON, ROBERTO N., M.D. (A-34485) Monrovia, CA
B&P Code §2236. Stipulated Decision. Conviction for insurance fraud. Revoked, stayed, 5 years' probation on terms and conditions. July 17, 1995

Help Your Colleague By Making A Confidential Referral

If you are concerned about a fellow physician whom you feel is abusing alcohol or other drugs or is mentally ill, you can get assistance by asking the Medical Board's Diversion Program to intervene.

The intervention will be made by staff trained in chemical dependency counseling or by physicians who are recovering from alcohol and drug addiction. As part of the intervention, the physician will be encouraged to seek treatment and be given the option of entering the Diversion Program. Participation in Diversion does not affect the physician's license.

Physicians are not required by law to report a colleague to the Medical Board. However, the Physicians Code of Ethics requires physicians to report a peer who is impaired or has a behavioral problem that may adversely affect his or her patients or practice of medicine to a hospital well-being committee or hospital administrator, or to an external impaired physicians program such as the Diversion Program.

Your referral may save a physician's life and can help ensure that the public is being protected. All calls are confidential. Call (916) 263-2600.

**Medical Board of California
Physician Diversion Program
1420 Howe Avenue, Suite 14
Sacramento, CA 95825**

VALLURI, LALITHA, M.D. (A-39241) Chicago, IL

B&P Code §2305. Discipline by Illinois Board for failing to report child abuse under Illinois law. California: Public Reprimand. Default. June 15, 1995

VANVRANKEN, BRUCE H., M.D. (G-32570) El Toro, CA

B&P Code §§2241, 2242, 2234. Stipulated Decision. Prescribed controlled drugs to an addict, and prescribed drugs without a good faith prior examination and medical indication. Revoked, stayed, 5 years' probation on terms and conditions. May 22, 1995

WARD, PATRICK EUSTACE, M.D. (A-35816) San Diego, CA

B&P Code §2234(b)(c)(d). Stipulated Decision. Gross negligence, repeated negligent acts and incompetence in his handling of deliveries for 7 obstetrical patients. Revoked, stayed, 5 years' probation on terms and conditions, including 60 days' actual suspension. June 16, 1995

WICO, ANTONIO R., JR., M.D. (C-42887) Phoenix, AZ

B&P Code §2305. Discipline by Wisconsin Board and Arizona Board based on shortcomings in neonatal and pediatric anesthesiology. If he returns to practice in California, he must first pass an oral clinical exam in his field to prove competency. May 22, 1995

WINTERS, KENNETH B., M.D. (A-33139) Long Beach, CA

B&P Code §§2234(b)(c), 725. Stipulated Decision. Gross negligence and repeated negligent acts in weight loss practice in failing to record his prescribing of Medifast, in administering Vitamin B12 injections without medical indication, and in using psychometric testing excessively. Revoked, stayed, 4 years' probation on terms and conditions. July 3, 1995

WINSAUER, HENRY J., M.D. (C-38313) La Jolla, CA

H&S Code §11153. Stipulated Decision. Aided and abetted the prescription of a controlled drug without a legitimate medical purpose, by allowing clinic employees to use his rubber stamp on prescriptions without supervision. Prior discipline. Revoked, stayed, 5 years' probation on terms and conditions. Agrees to cooperate in the Medi-Cal fraud prosecution against the clinic owners and the pharmacy owner. May 18, 1995

WOODS, GEORGE WASHINGTON, JR., M.D. (A-33509)

Walnut Creek, CA

B&P Code §2234(c). Repeated negligent acts in failing to include alcoholism in the psychiatric discharge diagnosis, and in over prescribing medication at time of discharge. Public Reprimand. May 19, 1995

YANG, JOO-SOCK, M.D. (A-33778) San Francisco, CA

B&P Code §2234. Stipulated Decision. General unprofessional conduct related to a medical examination and biopsy on a teenage patient. Public Reprimand. July 20, 1995

YOUNG, GEORGE, M.D. (G-41318) Seaside, OR

B&P Code §2305. Stipulated Decision. Disciplines by Washington State Board and Oregon Board related to alcohol problems. California: Revoked, stayed, 10 years' probation on terms and conditions. May 24, 1995

ZIMMERMANN, EMERY G., M.D. (C-34948) Chino, CA

B&P Code §2234(b)(c)(d). Stipulated Decision. Took over a retiring psychiatrist's patient with depression, weight problems and drug dependency. Saw patient only once in 18 months without monitoring, yet continued to prescribe Xanax and Halcion until patient overdosed, survived, and was reported by ER to Medical Board. Gross negligence, repeated negligent acts, incompetence, prescribing without good faith prior exam and medical indication. Revoked, stayed, 4 years' probation on terms and conditions. June 14, 1995

ACUPUNCTURIST

SUN, JIAN QIU, L.Ac. (AC-3940) Los Angeles, CA

B&P Code §4955(e). Acupuncturist improperly advertised and misrepresented that he was an oriental medical doctor and a medical doctor ("Jian Qiu Sun, M.D., O.M.D."), when he was not. 90 days' suspension. May 10, 1995

HEARING AID DISPENSERS

BIGGERSTAFF, LADD (HA-1722) Camarillo, CA

B&P Code §3401. Violated various conditions of probation under a prior discipline. Revoked. Default. July 24, 1995

DUNN, ALICE (HA-3197) Portland, ME

B&P Code §§480, 3401(d)(e)(j). Stipulated Decision. Obtained California license by fraud or deceit by concealing convictions in Maine for repeated vehicle and drinking violations. In California, conviction for driving under the influence of alcohol. Habitual intemperance. Revoked. July 3, 1995

LONG, DAVID (HA-2150) El Centro, CA

B&P Code §§3401(g), 3350, 3427, 3428. Stipulated Decision. Ordered not to dispense hearing aids until he paid his cite and fine and brought his delinquent license current and valid. He didn't do so, tied to investigators, and continued to dispense hearing aids with a lapsed license. Revoked, stayed, 5 years' probation on terms and conditions, including 6 months' actual suspension. June 22, 1995

McCAHERA, MICHAEL (HA-2694) Santa Fe Springs, CA

B&P Code §3401(b)(c)(g)(h). Gross incompetence, repeated negligent acts and fraud in selling and fitting hearing aids, with a lapsed license, and employing unlicensed dispensers who sold ill-fitting, defective or unnecessary aids to elderly persons. Failed refunds. Revoked. Default. July 24, 1995

SHUWARGER, COLEMAN (HA-2702) Chatsworth, CA

B&P Code §3401(a)(c)(g). Stipulated Decision. Gross incompetence, repeated negligent acts, fraud and misrepresentation in dispensing aid and in servicing unsatisfactory hearing aids. Revoked, stayed, 5 years' probation on terms and conditions, including 30 days' actual suspension. July 15, 1995

PHYSICIAN ASSISTANTS

DUNPHY, DAVID, P.A. (PA-11184) Mill Valley, CA

B&P Code §§3527, 2234(b)(d). Stipulated Decision. Used an unapproved medical device known as the "Interro Hololinguistic Processor" in the treatment of patient. Practiced unlicensed acupuncture, and allowed his supervising physician to advertise this P.A. as "O.M.D." (Oriental medical doctor) for acupuncture availability. Revoked, stayed, 3 years' probation on terms and conditions. May 29, 1995

LEWIS, LINDA A., P.A. (PA-10179) Inglewood, CA

B&P Code §§490, 3531. Stipulated Decision. Conviction for disorderly conduct—prostitution. Revoked, stayed, 3 years' probation on terms and conditions. May 2, 1995

SCHWARTZ, STANLEY J., P.A. (PA-11897) Richmond, CA

B&P Code §§2234(a)(e), 2237, 2239, 2238, 475. Conviction for obtaining or attempting to obtain Talwin, a controlled drug, by fraud when he presented to the pharmacy a forged prescription. Revoked. Default. July 11, 1995

DOCTORS OF PODIATRIC MEDICINE

LEEMAN, STANTON, D.P.M. (E-1837) Laguna Beach, CA

B&P Code §§2234(b)(c)(d)(e), 2261, 2262. Stipulated Decision. In the course of podiatric practice, gross negligence, repeated negligent acts, incompetence, false documents, dishonest alteration of records. Revoked, stayed, 5 years' probation on terms and conditions, including 60 days' actual suspension. July 7, 1995

McGRATH, EDMUND JOHN, D.P.M. (E-3252) Clearwater, FL

B&P Code §§2234(b)(d), 2261, 2262, 810. Stipulated Decision. Created false medical records in support of false billings to insurance. Also, gross negligence and incompetence in podiatric practice. Revoked, stayed, 5 years' probation on terms and conditions, including 60 days' actual suspension. July 5, 1995

METZ, DOUGLAS, D.P.M. (D-5407) San Jose, CA

B&P Code §2234(b). Stipulated Decision. In treatment for a painful bunion, gross negligence in the improper surgical placement of a LaPorta double stem implant, and in failing to explore other less drastic alternatives than surgery. Revoked, stayed, 5 years' probation on terms and conditions. May 19, 1995

WILLIAMS, JOHN, D.P.M. (E-2030) Redding, CA

B&P Code §2234(c). Stipulated Decision. Repeated negligent acts in failure to document in progress notes either subjective or objective indications of a bunion deformity. Public Reprimand. July 6, 1995

PHYSICAL THERAPY ASSISTANT

METHVIN, RANDY ROYAL (AT 1209) Apple Valley, CA

B&P Code §§2660(h), 2655.7. Stipulated Decision. Gross negligence in performing a physical assessment, and failing to comply with laws relating to supervision of physical therapy assistants. Revoked, stayed, 5 years' probation on terms and conditions, including 21 days' actual suspension. July 5, 1995

PSYCHOLOGISTS

BRADY, THOMAS, Ph.D. (PSY-4012) Dana Point, CA

B&P Code §2960(i)(j)(1). Stipulated Decision. Inadequate supervision of psychological assistant; aided and abetted unlicensed practice of psychology. Revoked, stayed, 2 years' probation on terms and conditions. May 31, 1995

CERVANTES, RICHARD C., Ph.D. (PSY-10056) Beverly Hills, CA

B&P Code §§726, 2960(j)(n). Sexual misconduct during psychotherapeutic relationship. Revoked. June 8, 1995

CLARK, CRAIG, Ph.D. (PSY-9239) Redondo Beach, CA

B&P Code §2960(j)(p). Stipulated Decision. Gross negligence, functioning

outside of field of competence by providing back and neck massages to patient requesting physical therapy. Revoked, stayed, 3 years' probation on terms and conditions. June 2, 1995

D'ANGELO, JOSEPH, Ph.D. (PSY-3665) Chula Vista, CA

B&P Code §§726, 2960(j)(o). Sexual misconduct. Gross negligence. Revoked. Default. June 24, 1995

HUTCHERSON, WILLIAM R., Jr., Ph.D. (PSY-3339) Roseville, CA

B&P Code §2960(j). Stipulated Decision. Gross negligence. Revoked, stayed, 7 years' probation on terms and conditions. July 3, 1995

LINDSETH, PAUL A., Ed.D. (PSY-8845) Sacramento, CA

B&P Code §2963. Violated probation of prior discipline. Criminal conviction. Revoked. June 1, 1995

NIVETTE, JAMES, Ph.D. (PSY-3366) Carmel, CA

B&P Code §§726, 2960(j)(o)(i)(k)(h)(n). Stipulated Decision. Sexual misconduct. Gross negligence. Violated patient confidentiality. Dishonesty. Revoked. July 28, 1995

STREIFEL, JOHN, Ph.D. (PSY-6614) Camarillo, CA

B&P Code §2960(h)(j)(n), 16 CCR 1396. Stipulated Decision. No admissions to the following charges. Breached patient confidentiality. Dual relationship with patient in outside business. Business conferences with patient were falsely billed to insurance as therapy sessions. Dishonesty. Gross negligence. Revoked, stayed, 5 years' probation on terms and conditions. July 29, 1995

VANCOUVERING, NANCY V., Ph.D. (PSY-3998)

Point Richmond, CA

B&P Code §2960(j). Bizarre behavior and biased and inaccurate psychological reports for court cases, including child custody, constituted gross negligence. Revoked, stayed, 3 years' probation on terms and conditions. June 2, 1995

PSYCHOLOGY ASSISTANT

McCAUL, BRAD, Ph.D. (PSB-19114) Corona Del Mar, CA

B&P Code §§2960(i)(j)(k)(n)(o), 2903, 2913(f). Stipulated Decision. Gross negligence in his practice as a Psychological Assistant, irresponsible and unprofessional treatment of patients, fraudulent billings, and unlicensed practice of psychology. Psychological Assistant registration: Revoked, stayed, probation on terms and conditions. Psychology License: Probationary license issued on 5 years' probation on terms and conditions. Companion case to Thomas Brady, Ph.D. May 30, 1995

RESPIRATORY CARE PRACTITIONERS

CAMARILLO, JOSEPH L. (RCP 12569) Palmdale, CA

B&P Code §§490, 3750(d). Stipulated Decision. 3-11-91 conviction for petty theft of shoes at Mervyn's department store. 12-18-90 conviction for soliciting a lewd act. 9-6-91 second conviction for soliciting a lewd act. Revoked, stayed, 5 years' probation on terms and conditions. July 21, 1995

DUNBAR, KENNETH (RCP 3609) Lodi, CA

B&P Code §§3750(d)(j), 3752.6. Conviction for annoying or molesting a child under the age of 18 years (15 year-old stepdaughter). Sexual misconduct. Revoked. May 1, 1995

FALL, SALLY (RCP 9513) San Diego, CA

B&P Code §3750.5(b). Excessive use of drugs or alcohol to an extent dangerous to self or public. Long history of alcohol and drug abuse. Revoked. June 7, 1995

HALL, BRIAN (RCP 12571) Honolulu, HI

B&P Code §§3750(d)(k)(j), 3750.5(b), 3760, 3761, 581. Stipulated Decision. Criminal conviction. Excessive use of alcohol. False medical records. Obtained license by misrepresentation. Altered a license fraudulently. Revoked. May 1, 1995

JAMES, JEFFERY CRAIG (RCP 3004) Modesto, CA
B&P Code §3750(d)(j). 5-20-92 conviction for misdemeanor burglary—entering cars to steal. 10-1-93 conviction for battery in domestic dispute. Revoked, stayed, 3 years' probation on terms and conditions. June 9, 1995

LOWE, THOMAS (RCP 11580) Long Beach, CA
B&P Code §3750(d). Conviction for petty theft. Revoked, stayed, 5 years' probation on terms and conditions. May 26, 1995

MacBRIDE, CLAUDIA (RCP 3392) Petaluma, CA
B&P Code §§3760, 3750(j). Stipulated Decision. Misrepresented to her employer that her license renewal was in process, when in fact, not true. She continued to practice with a lapsed, invalid license. Revoked, stayed, 2 years' probation on terms and conditions, including 4 days' actual suspension. July 21, 1995

MORRIS, SHELLIE (RCP 4678) San Rafael, CA
B&P Code §§3750(f)(k), 3750.5. Stipulated Decision. Knowingly practiced with an expired license that had not been renewed. Drug and alcohol abuse. Negligence in her practice. Grossly incorrect entries in records. Revoked. May 1, 1995

NELSON, HARRY (RCP 12571) Highland, CA
B&P Code §§3752.6, 3750(d). 11-20-91 conviction for disturbing the peace, related to lewd act in public park toilet. 6-17-93 conviction for same type of offense. Revoked. July 3, 1995

PERCOCO, RONALD (RCP 15724) Modesto, CA
B&P Code §3750(d). Federal conviction for conspiracy to distribute a controlled substance, methamphetamine, a Schedule II drug. Revoked. Default. July 26, 1995

ROOT, CHARLES (RCP 48) Danville, CA
B&P Code §3750.5. Unlawful possession of methamphetamine, a Schedule II controlled substance. Revoked, stayed 5 years' probation on terms and conditions. June 23, 1995

SLANE, WILLIAM JR. (RCP 9499) Paso Robles, CA
B&P Code §§3750(d)(j), 3750.5(b). Conviction for possession of controlled substance paraphernalia. While visiting his dentist, lifted a bottle of Fentanyl and a syringe. Revoked. Default. July 26, 1995

SURRENDER OF LICENSE WHILE CHARGES PENDING

AGEE, CECIL H., M.D. (A-15687) Gilroy, CA
June 2, 1995

BANOFF, HARRY, M.D. (A-12617) Palo Alto, CA
July 27, 1995

BLOOM ALLAN, M.D. (AFE-13852) Redmond, WA
May 27, 1995

EBERHARDT, ROBERT PAUL, M.D. (A-26016) Bismarck, ND
June 15, 1995

FAGAN, LEWIS, M.D. (C-21395) Miami, FL
May 26, 1995

GARLAND, LESLIE G., M.D. (G-08551) Torrance, CA
May 5, 1995

IP, STANLEY SHUI-WAH, M.D. (A-40498) Tacoma, WA
June 12, 1995

KAPLAN, HERMAN, M.D. (G-9679) Moraga, CA
May 20, 1995

LATTANAND, ANAND, M.D. (A-38839) Tampa, FL
June 30, 1995

MARTIN, RICHARD A., M.D. (A-22505) Santa Rosa, CA
June 30, 1995

MERRIMAN, EDWARD, M.D. (C-40788) Charlestown, MA
July 22, 1995

MOYERS, THOMAS G., M.D. (A-19983) San Diego, CA
June 30, 1995

MULDER, HAROLD H., M.D. (AFE-11046) Escondido, CA
June 30, 1995

PHILLIPS, LEE JAY, M.D. (G-69928) Fair Lawn, NJ
July 12, 1995

REILEY, CARLTON G., M.D. (C-26202) Carmel, CA
July 3, 1995

SANDERSON, JOHN D., M.D. (G-42246) Bainbridge Is., WA
May 26, 1995

SOUTHWOOD, ERIC J., M.D. (A-17087) San Carlos, CA
July 21, 1995

SOWERS, JAMES A., M.D. (G-1159) Fresno, CA
July 5, 1995

TRUSCHEL, TIMOTHY L., M.D. (G-60326) Olympia, WA
October 20, 1994

UDALL, JOHN A., M.D. (G-05477) Artesia, CA
May 19, 1995

WESTFALL, ROBERT E., M.D. (A-12297) Berkeley, CA
May 1, 1995

WILLIAMS, DAVID KEITH, M.D. (C-40312) London, England
May 24, 1995

PSYCHOLOGIST

VIDOS, MARIA, Ph.D. (PSY-7557) Sacramento, CA
April 21, 1994

RESPIRATORY CARE PRACTITIONER


PETERS, VICTORIA (RCP 6234) Canyon Country, CA
July 3, 1995

In the July 1995 issue of the *Action Report*, an article implied that the California Medical Association offers for sale Chapter 13.5 of the California Physician's Legal Handbook, entitled "Managed Care: Guidelines for Physicians from the California Medical Association." The CMA does not offer individual chapters of the CPLH; the CPLH must be purchased in its entirety. Call (800) 882-1-CMA for more information.

Department of Consumer Affairs
Medical Board of California
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TOLL FREE COMPLAINT LINE:

1-800-MED-BD-CA (1-800-633-2322)

(Non-complaint calls to this number cannot be transferred.)

Medical Board:

Applications and Examinations	(916) 263-2499
Complaints	(800) 633-2322
Continuing Education	(916) 263-2360
Diversion Program	(916) 263-2600
Health Facility Discipline Reports	(916) 263-2382
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License Renewals	(916) 263-2571

Verification of Licensure/

Consumer Information (916) 263-2382

General Information (916) 263-2466

Board of Podiatric Medicine (916) 263-2647

Board of Psychology (916) 263-2699

Affiliated Healing Arts Professions:

Complaints	(800) 633-2322
Acupuncture	(916) 263-2680
Audiology	(916) 263-2666
Hearing Aid Dispensers	(916) 263-2288
Midwives	(916) 263-2393
Physical Therapy	(916) 263-2550
Physician Assistant	(916) 263-2670
Registered Dispensing Opticians	(916) 263-2634
Respiratory Care	(916) 263-2626
Speech Pathology	(916) 263-2666

ACTION REPORT-OCTOBER 1995

For information or comments about the *Action Report*, please contact:
Candis Cohen, Editor, (916) 263-2389.

For additional copies of this report, please fax your company name, address, telephone number, and contact person to: Yolanda Gonsolis, Medical Board Executive Office, at (916) 263-2387, or mail your request to her at 1426 Howe Avenue, Suite 54, Sacramento, CA 95825.

1994 - 95 Annual Report Medical Board of California

1426 Howe Avenue, Suite 54, Sacramento, CA 95825 (916) 263-2389

EXECUTIVE SUMMARY

The Medical Board reached an all-time high in categories across the range of complaints and discipline. Complaints from the public were up by over 1,000. Discipline, meted out after due process, reached new heights, with record numbers of revocations, suspensions, suspensions with probation, probations and now adding new citations-and-fines and public letters of reprimand. There are also a record number of stipulations, showing the Board's emphasis on resolving patient protection issues without protracted hearings.

Medical Quality Review: The Board implemented the recommendations of its Task Force on Medical Quality Review, which revamped the Board's use of its medical resources in the enforcement process and in making recommendations to the Board. The new system establishes a formal reporting relationship, minimum qualifications, training, oversight and evaluation for the Board's consultants and experts. Over 1,200 California physicians have volunteered to serve as experts.

Enforcement: The Board adopted a system of case prioritization, to be implemented after formal adoption of regulations. The system consists of an eight-part list of the most egregious cases to be handled on an expedited basis. The Division of Medical Quality implemented the legislatively created cite-and-fine program and Public Letter of Reprimand, which permit the Board to impose alternative sanctions for less serious violations. The Board also began the first-ever automatic license suspensions for physicians who have been incarcerated for felony convictions.

Licensing: The Board's Division of Licensing's new manager, Neil Fippin, has joined a committee of the Federation of State Medical Boards to implement a new national service to authenticate core documents needed for licensure throughout the 62 member boards in the nation.

Lawsuits: The California Medical Association's lawsuit to enjoin the Medical Board's information disclosure policy is still pending. In a lawsuit by the *Los Angeles Times*, the *San Jose Mercury News*, and *The Sacramento Bee* for access to the Board's raw computer data that is public record, a Sacramento Superior Court judge ruled for the plaintiffs. In December 1994 the Board began releasing "customized" lists of information in computer disc format prepared by its Data Systems Office in response to requests from reporters statewide.

Public Information/Records: The Board adopted a three-year information systems/data processing plan which includes placing all the Board's public records "on-line" through Internet and similar services by the end of the third year.

PHYSICIAN AND SURGEON VALID LICENSES BY COUNTY

Alameda	3,349	Inyo	44	Monterey	660	San Luis Obispo	565	Trinity	14
Alpine	1	Kern	821	Napa	401	San Mateo	2,382	Tulare	400
Amador	51	Kings	105	Nevada	177	Santa Barbara	1,019	Tuolumne	104
Butte	378	Lake	67	Orange	7,016	Santa Clara	4,398	Ventura	1,360
Calaveras	37	Lassen	36	Placer	483	Santa Cruz	517	Yolo	519
Colusa	13	Los Angeles	23,413	Plumas	25	Shasta	346	Yuba	56
Contra Costa	2,204	Madera	68	Riverside	1,857	Sierra	2		
Del Norte	35	Marin	1,491	Sacramento	2,806	Siskiyou	62	California Total	
El Dorado	220	Mariposa	21	San Benito	28	Solano	578	77,311	
Fresno	1,418	Mendocino	193	San Bernardino	2,740	Sonoma	1,102	Out of State Total	
Glenn	8	Merced	213	San Diego	7,080	Stanislaus	664	25,311	
Humboldt	256	Modoc	6	San Francisco	4,435	Sutter	133	Valid Licenses	
Imperial	116	Mono	17	San Joaquin	751	Tehama	50	102,622	

MISSION STATEMENT OF THE MEDICAL BOARD OF CALIFORNIA

The mission of the Medical Board of California is to protect consumers through proper licensing of physicians and surgeons and certain allied health professions and through the vigorous, objective enforcement of the Medical Practice Act.

LICENSING ACTIVITY

	FY 93-94	FY 94-95		FY 93-94	FY 94-95
PHYSICIAN LICENSES ISSUED			SPECIAL PURPOSE LICENSING EXAM (SPEX)		
Federation Licensing Exam (FLEX)	1,135	1,148*	Applicants passing SPEX exam	51	61
National Board Exam (NBME)	2,272	2,496	Applicants failing SPEX exam	39	31
Reciprocity with other states	103	97	Total	90	92
Total new licenses issued	3,510	3,741			
Renewal licenses issued +	49,955	50,663	ORAL EXAM		
Total	53,465	54,404	Applicants passing oral exam	1,145	1,032
			Applicants failing oral exam	43	54
			Total	1,188	1,086
PHYSICIAN LICENSES IN EFFECT			STATEMENT OF ISSUES TO DENY LICENSE		
California Address	76,411	77,311	Filed	3	4
Out-of-State	25,665	25,311	Upheld/Application Denied	5	3
Total	102,076	102,622	Denied/Applicant Granted Probationary Cert.	1	3
			Stipulation/Probationary Cert. Granted	2	3
			Withdrawn	1	0
LICENSING EXAMINATION ACTIVITY			+ Total includes 4,008 licenses that incur no revenue because the physicians are exempt from payment of renewal fees. The total also includes physicians with non-practicing license status (i.e., disabled, inactive).		
Federal Licensing Exam (FLEX)			* This number includes applicants who passed the United States Medical Licensing Exam (USMLE). USMLE replaced FLEX effective June 1994.		
Applicants passing FLEX exam	239**	**	**The FLEX exam is no longer administered.		
Applicants failing FLEX exam	58	**			
Total	297	**			
United States Medical Licensing Exam (USMLE)					
Applicants passing USMLE exam	15	1,474			
Applicants failing USMLE exam	8	139			
Total	23	1,613			

VERIFICATION SERVICES

	FY 93-94	FY 94-95		FY 93-94	FY 94-95
LICENSE STATUS VERIFICATIONS			REPORT VERIFICATIONS		
Phone Verifications	230,543	214,595	805.5 B&P Reports Received	164	146
On-Line Access Verifications	167,697	209,747	805.5 B&P Reports Mailed	1,216	1,108
Written Verifications	111,290	145,682	Malpractice 800-804 B&P	959	993
Teale Data Verifications	107,473	52,588 *	Incomplete Medical Records 805	446	363
Verification Totals	617,003	622,612	Nat. Pract. Data Bank Adverse Action	269	444
Authorized Users—On-Line			NPDB 805s	78	87
Access Verifications	185	312	NPDB Malpractice	1,279	1,182
Non-Verification Telephone Calls	67,763	70,695			
CERTIFICATIONS AND LETTERS			CONTINUING MEDICAL EDUCATION		
Certification Letters	1,569	2,724	CME Audits	782	768
Letters of Good Standing	5,961	5,971	CME Waivers	361	575
Fictitious Name Permits					
Total Number of Permits in Effect	**	9,513	*A 51% decrease is due to workload shifting to and increasing in the more expeditious On-Line Access Verifications (25%); and Written Verifications (30%). Teale Data Verification is primarily for customers with 4,000 or more individual licensee verification requests.		
Issued	1,350	1,140	** Previously not reported.		
Renewed	**	3,862			

DIVISION OF LICENSING

The Licensing Program continues to make improvements in public protection and implement new provisions of law. This year, the Division approved its first specialty board, approved outpatient surgery and midwifery regulations, obtained legislation to strengthen the requirements of fellowship and faculty licensing exemptions, administered the first USMLE Step 3 licensing examination, and expanded on-line verification services (computer verification via modem).

The members of the Division approved their first "equivalent" specialty board under SB 2036, the American Board of Facial Plastic and Reconstructive Surgery. This law restricts physicians from advertising that they are "board certified" unless they are a member of an ABMS board, or a board that has been approved as equivalent by the Division of Licensing. The Division received four more applications from various specialty boards. They are under review, and will be approved or disapproved next year.

The Division's subcommittee on Outpatient Surgery developed regulations to implement AB 595. This law will prohibit surgery performed under certain specified anesthesia after July 1, 1996 unless done in a licensed or accredited setting. The

Division is mandated by the law to approve agencies that will accredit these outpatient settings. The regulations were written simply, acknowledging the minimum standards stated in the law and require no more stringent requirements than outlined in the statute. They were approved by the members in May 1995, and are expected to be enacted in August 1995. Accreditation agencies should be approved in November.

Midwifery regulations continued through the regulatory process, and one midwifery training program, the Seattle School of Midwifery, was approved. It is anticipated that California will begin licensing lay midwives in fiscal year 1996. The regulatory process has been as contentious as the negotiations of the statute itself, but all parties have diligently worked to ensure implementation of this newly licensable profession.

As a result of the Division members' discussions last year, legislation was enacted this year to strengthen the requirements for faculty appointment and fellowship training exemptions. Among a number of provisions, the law will require that faculty appointments be included with licensees in medical facility peer review reporting, and sets a three-year limit on fellowship training exemptions.

AFFILIATED HEALING ARTS PROFESSIONS LICENSES ISSUED

	<u>FY 93-94</u>	<u>FY 94-95</u>
Acupuncturist	342	343
Audiologist	59	68
Hearing Aid Dispenser	172	158
Physical Therapist	846	834
Physical Therapy Assistant	393	381
Electroneuromyographer	0	0
Kinesiologic		
Electromyographer	3	3
Physician Assistant	194	256
Physician Asst. Supervisor	1,206	1,402
Doctors of Podiatric Medicine	116	75
Psychologist	866	402
Psychologist Assistant	488	675
Registered Dispensing		
Optician Firm	181	116
Contact Lens Dispenser	47	86
Spectacle Lens Dispenser	157	231
Research Psychoanalyst	2	5
Respiratory Care Practitioner	868	815
Speech Pathologist	357	376
Total Licenses Issued	6,297	6,226

AFFILIATED HEALING ARTS PROFESSIONS LICENSES IN EFFECT

	<u>FY 93-94</u>	<u>FY 94-95</u>
Acupuncturist	3,985	4,444
Audiologist	1,344	1,412
Hearing Aid Dispenser	2,471	2,450
Physical Therapist	15,793	16,066
Physical Therapy Assistant	3,065	3,345
Electroneuromyographer	38	36
Kinesiologic		
Electromyographer	22	24
Physician Assistant	2,831	3,023
Physician Asst. Supervisor	9,453	10,093
Doctors of Podiatric Medicine	2,645	2,600
Psychologist	11,909	12,552
Psychologist Assistant	3,113	1,883
Registered Dispensing		
Optician Firm	1,723	1,695
Contact Lens Dispenser	867	857
Spectacle Lens Dispenser	3,259	3,189
Research Psychoanalyst	59	61
Respiratory Care Practitioner	14,670	15,143
Speech Pathologist	7,937	8,306
Total Licenses In Effect	84,184	87,179

COMPLAINTS RECEIVED BASED UPON REPORTS REQUIRED BY LAW[†]

MEDICAL MALPRACTICE	FY 93-94	FY 94-95
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Insurers - Section 801

Physician & Surgeon	974	809
Affiliated Healing Arts Professionals	27	19
Subtotal	1,001	828

Attorneys or Self-Reported - Section 802

Physician & Surgeon	62	100
Affiliated Healing Arts Professionals	0	0
Subtotal	62	100

Courts - Section 803

Physician & Surgeon	10	21
Affiliated Healing Arts Professionals	0	0
Subtotal	10	21

Total Malpractice Reports 1,073 946

Coroners' Reports - Section 802.5

Physician & Surgeon	17	6
Affiliated Healing Arts Professionals	0	0
Total Coroners' Reports	17	6

HEALTH FACILITY DISCIPLINE

Medical Cause or Reason - Section 805

Physician & Surgeon	124	114
Affiliated Healing Arts Professionals	10	1
Total Health Facility Discipline Reports	134	115

Total reports submitted pursuant to Business and Professions Code Section 800

Physician & Surgeon	1,187	1,050
Affiliated Healing Arts Professionals	37	20

[†] Information required by Business and Professions Code section 2313.

For additional copies of this report, please fax your company name, address, telephone number and contact person to: Terrence Jackson, Medical Board Support Services Unit, at (916) 263-2479, or mail your request to him at 1426 Howe Avenue, Suite 54, Sacramento, CA 95825.

DIVISION OF MEDICAL QUALITY ACTION SUMMARY

	FY 93-94			FY 94-95		
	MD	AH	ALL	MD	AH	ALL
COMPLAINTS/INVESTIGATIONS						
Complaints Received	7,902	1,784	9,686	11,465	1,041	12,506
† Complaints Closed by CCICU	5,614	1,299	6,913	11,058	916	11,974
Investigations						
Cases Opened	2,046	540	2,586	2,041	289	2,330
† Cases Closed	2,231	735	2,966	1,988	310	2,298
Cases referred to the AG	601	220	821	415	76	491
Cases referred to DAs/CAs	82	28	110	75	19	94

† ADMINISTRATIVE FILINGS

Interim Suspensions	16	1	17	14	1	15
Temporary Restraining Orders	4	0	4	5	0	5
Automatic Suspension Orders*	n/a	n/a	n/a	5	1	6
Statement of issues to deny application	3	38	41	4	6	10
Petition to Compel Psychiatric Exam	9	3	12	11	0	11
Petition to Compel Competency Exam	9	0	9	4	0	4
Petition to Compel Physical Exam	0	0	0	0	0	0
Accusation/Petition to Revoke Probation	407	183	590	353	50	403
Total Administrative Filings	448	225	673	396	58	454

* Includes Automatic Suspension Orders per section 2236.1 B&P Code and section 23 Penal Code.

† ADMINISTRATIVE ACTIONS

Revocation	62	62	124	65	16	81
Voluntary Surrender (in lieu of Accusation or with Accusation pending)	28	9	37	62	12	74
Suspension Only	0	0	0	2	0	2
Probation with Suspension	39	18	57	34	3	37
Probation	75	66	141	141	26	167
Probationary License Issued	2	13	15	3	5	8
Public Letter of Reprimand*	9	0	9	25	0	25
Other decisions (e.g., Warning Notice)	9	5	14	21	5	26
Total Administrative Actions	224	173	397	353	67	420

* New Public Letter of Reprimand authority became effective 1-1-94.

REFERRAL AND COMPLIANCE ACTIONS

Citation and Administrative Fines Issued*	n/a	n/a	n/a	57	16	73
Physicians Called in for Medical Review	138	21	159	37	3	40
† Physicians Referred to Diversion Program	31	0	31	18	2	20
Total Review & Referral Action	169	21	190	112	21	133

* Regulations providing Citation-and-Fine authority were approved in May 1994 (3 citations issued to physicians in FY 93-94).

OTHER ADMINISTRATIVE OUTCOMES

Accusation/SOI* Withdrawn	44	12	56	69	9	78
Accusation/SOI* Dismissed	13	2	15	9	2	11
SOI* Granted (Lic. Denied)	5	11	16	3	5	8
SOI* Denied (Lic. Granted)	1	1	2	3	6	9
Petitions for Penalty Relief granted**	14	0	14	20	6	26
Petitions for Penalty Relief denied**	14	2	16	15	5	20
Petitions to Compel Psychological Exam granted	8	1	9	13	0	13
Petition to Compel Competency Exam granted	12	0	12	24	0	24
Petition to Compel Exams denied	2	1	3	0	0	0

* Statement of Issues

** In accordance with the Agency Statistical Profile report specifications, Penalty Relief includes Petitions for Reinstatement, Petitions for Modification of Penalty, and Petitions for Termination of Probation.

† Information required by Business and Professions Code section 2313.

DIVISION OF MEDICAL QUALITY

The 1994-95 fiscal year featured increased consumer complaint volume (almost 12,000) which was coupled with persistent investigator vacancies; this combination adversely impacted the

Enforcement Program's ability to maintain the record high level of cases referred to the Attorney General for prosecution established in the 1993-94 fiscal year. Despite these problems, the

Enforcement Program successfully pursued alternatives to improve efficiency, e.g., the newly enacted legislative authority to expand public protection by imposing the first ever automatic license suspensions for physician felony conviction incarcerations. This sanction was complemented with increased use of citation-and-fine and public letters of reprimand. At the same time the Medical Board and the California Medical Association jointly sponsored SB 779 (Lewis) which was signed by the Governor and encourages more physician participation in the Board's Diversion Program for impaired physicians.

When court reporting of felony convictions proved ineffective, Enforcement Program staff made independent efforts to identify, authenticate and publicly disclose 69 physician felony convictions. (In the 1993-94 fiscal year, only one felony conviction was disclosed to the public.) The Central Complaint Unit improved its operations by reducing the time interval associated with complaint review at the medical consultant stage from 100 days in the 1993-94 fiscal year to 23 days in 1994-95 fiscal year. Supported by the recent findings of the State Auditor, the Enforcement Program continued its aggressive cost recovery efforts initiated in 1993.

This *Annual Report* also demonstrates the overall Enforcement Program efficiency and performance compared to prior years. Examples include increased administrative actions such as ordered physician probations (and probations with suspension), which increased from 116 in 1993-94 to 178 (53% increase) in the 1994-95 fiscal year. Public letters of reprimand, authorized by legislation which became effective January 1, 1994, increased from nine in the 1993-94 fiscal year to 24 in the 1994-95 fiscal year. Similarly, administrative citations, which became a new disciplinary option in May 1994, produced 57 citations in the 1994-95 fiscal year.

The Office of the Attorney General's Health Quality Enforcement Section (now 50 attorneys and eight paralegals who handle solely Medical Board cases) provides exclusive prosecution services for MBC cases. Enforcement Program field and headquarters staff demonstrated remarkable achievements, perseverance and dedication which resulted in high program performance and expanded public protection.

COMPLAINTS RECEIVED†

		Fraud	Health & Safety ¹	Non-Jurisdictional ²	Competence/ Negligence ³	Other Category	Personal Conduct ⁴	Unprofessional Conduct ⁵	Unlicensed/ Unregistered	Total
Public	MD	272	239	322	3,903	4	61	1,637	163	6,601
	AH	44	3	35	144	0	9	343	74	652
B&P Code Section 800	MD	0	7	2	996	0	16	28	1	1,050
	AH	0	0	0	19	0	0	1	0	20
Other Licensees	MD	6	14	17	39	0	8	50	27	161
	AH	1	0	4	9	0	2	39	23	78
Internal (Based on Internal Information)	MD	24	14	5	60	0	12	37	18	170
	AH	8	0	0	7	0	1	33	18	67
Anonymous	MD	12	6	9	28	0	18	36	19	128
	AH	1	0	0	0	0	2	13	14	30
Law Enforcement Agency	MD	3	4	1	2	0	39	15	13	77
	AH	0	1	0	0	0	9	2	2	14
Other California State Agency	MD	5	7	3	35	0	3	18	8	79
	AH	2	1	0	0	0	2	9	0	14
Other State	MD	2	7	0	19	0	14	162	0	204
	AH	0	0	0	0	0	1	2	0	3
Society or Trade Organization	MD	2	3	3	3	0	0	2	2	15
	AH	0	0	0	1	0	2	7	2	12
Other Unit of Consumer Affairs	MD	1	6	1	1	0	1	5	5	20
	AH	0	0	1	2	0	1	13	5	22
Federal or Other Government Agency	MD	5	5	4	2,916	0	7	16	2	2,955 ⁶
	AH	1	1	0	120	0	0	6	1	129
Miscellaneous Sources	MD	0	0	0	0	0	2	3	0	5
	AH	0	0	0	0	0	0	0	0	0
Subtotals	MD	332	312	367	8,002	4	181	2,009	258	11,465
	AH	57	6	40	302	0	29	468	139	1,041
Grand Totals		389	318	407	8,304	4	210	2,477	397	12,506

Key: MD = Medical Doctor;

AH = Affiliated Healing Arts Professionals (includes: Podiatrists, Physician Assistants, Psychologists, Dispensing Opticians, and Speech Pathologists/Audiologists).

(1) Health and Safety complaints, e.g. excessive prescribing, sale of dangerous drugs, etc.

(2) Non-Jurisdictional complaints are not under the authority of the Board, and are referred to other agencies such as the Department of Health Services, Department of Insurance, etc.

(3) Competence/Negligence complaints are related to the quality of care provided by licensees.

(4) Personal Conduct complaints, e.g. licensee self-use of drugs/alcohol, conviction of a crime, etc.

(5) Unprofessional Conduct complaints include sexual misconduct with patients, discipline by another state, failure to release medical records, etc.

(6) Complaints received from the Federal or Other Government Agency reflect 1) increased reports received from the National Practitioner Data Bank (NPDB) regarding actions taken in other jurisdictions against California-licensed physicians, and 2) increased processing of NPDB reports previously backlogged in the Central Complaint Unit.

† Information required by Business and Professions Code section 2313.

BUSINESS & PROFESSIONS CODE §2313—ADDITIONAL DATA ELEMENTS

1. Additional data for Temporary Restraining Orders (TRO) and Interim Suspension Orders (ISO):

	Orders Sought: TRO/ISO	Orders Granted: TRO	ISO
Mental Illness	5	3	0
Drug Prescribing Violations	3	1	0
Unlicensed Activity	1	0	0
Sexual Misconduct	3	4	2
Self Abuse of Drugs or Alcohol	3	3	0
Fraud/Dishonesty	1	1	1
Gross Negligence/Incompetence	2	2	1
Conviction of a Crime	1	4	1
Unprofessional Conduct	0	1	0
Total:	19	19	5

NOTE: Some orders granted were sought in the prior fiscal year.
2. The number and type of action which resulted from cases referred by the state Department of Health Services pursuant to Section 14124 of the Welfare and Institutions Code, relating to suspension of provider status for state medical assistance:

Received from Department of Health Services	11
Resolved by CCICU	7

NOTE: In most of these cases, Board action (i.e. revocation) preceded the suspension of provider status by the Department of Health Services, and the information referred to the Board is redundant.
3. Consumer inquiries and complaints:

Consumer inquiries	74,882
Jurisdictional inquiries	41,735
Complaint forms sent	15,043
Complaint forms returned by consumers	6,456
4. Number of completed investigations at the Attorney General's Office awaiting the filing of formal charges:

Physician and Surgeon:	170
Affiliated Healing Arts Professionals:	35
5. Number of probation violation reports sent to the Attorney General:

	MD	AH	Total
General:	15	6	21
6. Petitions to Revoke Probation Filed:

	MD	AH	Total
	14	6	20
7. Final dispositions of Probation Filings:

Additional Suspension or Probation	7	0	7
Probation Revoked or License Surrendered	6	4	10
Petition Withdrawn/Dismissed	1	0	1
8. Petitions for Reinstatement of License:

Filed	14	2	16
Granted	4	2	6
Denied	9	3	12
9. Average and median time in processing complaints during the fiscal year, for all cases, from date of original receipt of the complaint, for each stage of discipline, through completion of judicial review:

	Average (days)	Median (days)
1. Complaint Unit Processing	91	28
2. Investigation	345	279
3. Attorney General Processing to preparation of an accusation	238	175
4. Other stages of the legal process (e.g. after charges filed)	538	456
10. Investigator caseloads as of June 30, 1995:

Enforcement Field	Statewide	Per Investigator
Operations Caseload:		
Active investigations:	2,152	31
AG Assigned Cases:*	630	11
Probation Unit Caseload:		
Monitoring Cases:**	487	54
Active investigations:	63	7
AG Assigned Cases:*	30	3

* These cases are at various stages of AG processing, and may require supplemental investigative work such as subpoena service, interviewing new victims or witnesses, testifying at hearings, etc.

** 167 additional monitoring cases were inactive because the probationer is out of state.

11. Number and type of action taken by disciplinary case type:	Revocation	Voluntary Surrender	Suspension Only	Probation with suspension	Probation	Probationary license issued	Public letter of reprimand	Other Action	Total Actions by Case Type
Negligence	15 (13)	20 (17)	0	13 (11)	54 (45)	0	2 (2)	6 (5)	110 (93)
Inappropriate Prescribing	4 (4)	7 (7)	0	7 (7)	19 (17)	0	5 (5)	1 (1)	43 (41)
Unlicensed Activity	3 (2)	0	0	0	0	0	0	0	3 (2)
Sexual Misconduct	20 (11)	15 (9)	0	3 (2)	8 (8)	0	0	0	46 (30)
Mental Illness	0	0	0	0	8 (7)	0	0	0	8 (7)
Self-use of drugs/alcohol	3 (3)	2 (2)	0	5 (5)	11 (10)	4 (3)	0	1 (0)	26 (23)
Fraud	2 (1)	3 (2)	0	3 (3)	11 (9)	4 (0)	0	1 (1)	24 (16)
Conviction of a crime	4 (3)	1 (1)	0	0	10 (7)	0	2 (2)	2 (2)	19 (15)
Unprofessional Conduct	5 (3)	6 (4)	2 (2)	5 (5)	15 (8)	0	5 (5)	5 (2)	43 (29)
*Miscellaneous violations	25 (25)	20 (20)	0	1 (1)	31 (30)	0	11 (11)	10 (10)	98 (97)
Total Actions by Discipline Type (Physician only)**	81 (65)	74 (62)	2 (2)	37 (34)	167 (141)	8 (3)	25 (25)	26 (21)	420 (353)

* Most of the case types classified as "Miscellaneous violations" are reciprocal action based upon discipline by another state.

** Figures in parentheses represent physician discipline totals for each category.

DIVERSION PROGRAM

DIVERSION PROGRAM

Activity*		
Beginning of fiscal year	226	
Accepted into program	51	
Completions:		
Successful	39	
Unsuccessful	19	
Active at end of year	212	
Applicants**	36	
Type of Impairment		
	#	%
Alcohol	45	21
Other drugs	77	36
Alcohol and other drugs	80	38
Mental illness	4	2
Mental illness & substance abuse	6	3
Total	212	100

*These statistics include participants who have been approved for informal participation only by DMQ Enforcement because of an open investigation. They also include doctors of podiatric medicine.

**Applicants are participants who either 1) have not been seen by a Diversion Evaluation Committee or 2) have not yet signed a Diversion Agreement.

The Board's Diversion Program for impaired physicians fulfills both elements of the Division of Medical Quality's mission by helping to protect the public while rehabilitating physicians. The Diversion Program protects the public by closely monitoring physicians who are impaired as a result of alcohol and other drug addiction or mental illness. At the same time it provides physicians with substance abuse problems the opportunity for rehabilitation and life long recovery.

The Diversion Program, created by statute in 1980 as an alternative to discipline by the Board, allows participants, when appropriate, to continue to practice medicine. Both Board-referred and self-referred candidates can participate if deemed eligible by Diversion Evaluation Committees. These committees are composed of three physicians and two public members with expertise in alcohol and other drug addiction or mental illness. A physician's license is not affected as a result of being in the Program. Participation by self-referred physicians is completely confidential from the disciplinary arm of the Board.

During Fiscal Year 1994-1995 Diversion Program staff completed implementation of 10 recommendations for program improvement adopted by the Board in the prior fiscal year, including issuing its first *Annual Report* in January 1995. In addition, Program staff began a comprehensive outreach effort at the request of the Board to make the Program better known and to encourage physicians in need of treatment and recovery to contact Diversion.

MEDICAL BOARD OF CALIFORNIA FY 1994-1995

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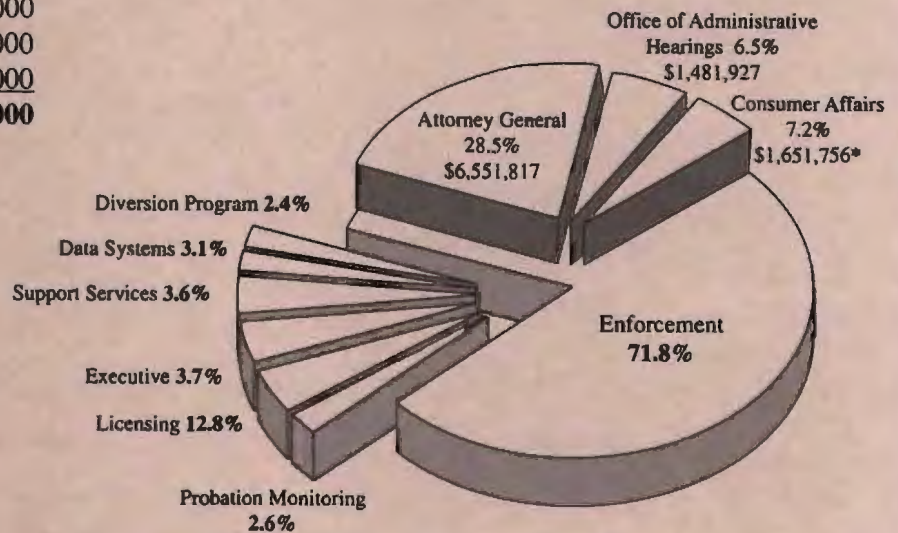
John C. Lancara

MANAGER, LICENSING PROGRAM

Neil Fippin

MEDICAL BOARD OF CALIFORNIA 1994-1995 FISCAL YEAR BUDGET

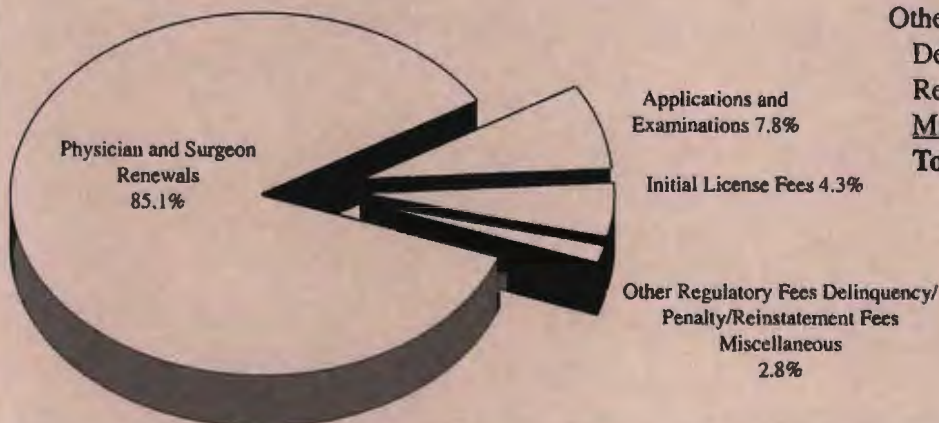
Enforcement	71.8%	\$22,951,000
Licensing	12.8%	4,097,000
Executive	3.7%	1,178,000
Support Services	3.6%	1,145,000
Data Systems	3.1%	1,006,000
Probation Monitoring	2.6%	834,000
<u>Diversion Program</u>	<u>2.4%</u>	<u>774,000</u>
Total Budget	100 %	\$31,985,000



NOTE: Total amount (allocated to all programs) paid to Department of Consumer Affairs = \$2,303,383

* Amount to Department of Consumer Affairs allocated to the enforcement program only.

MEDICAL BOARD OF CALIFORNIA SOURCES OF REVENUE 1994-1995



Physician and Surgeon		
Renewals	85.1%	\$26,484,000
Applications and Examinations	7.8%	\$2,437,000
Initial License Fees	4.3%	\$1,334,000
Other Regulatory Fees, Delinquency/Penalty/Reinstatement Fees, Miscellaneous	2.8%	\$871,000
Total	100 %	\$31,126,000