

ACTION REPORT

BOARD OF MEDICAL QUALITY ASSURANCE

No. 4—May 1977

DISCIPLINARY GUIDELINES

Section 2123.10(b) of the Medical Practice Act mandates, among other things, that the Division of Medical Quality "shall promulgate recommended uniform disciplinary measures for particular situations." In addition, the Division has become aware that most physicians licensed in California have never read the Medical Practice Act, are not fully aware of activities for which disciplinary action may be taken against their licenses, nor appreciate the extent of the discipline which might be rendered.

Suggested guidelines for disciplinary action were sent out to almost one thousand persons and organizations, asking for their opinions and discussion of the proposed guidelines. Medical societies, hospitals, legal organizations, governmental agencies, physicians on probation to the Division, Medical Quality Review Committee members, medical schools, and other potentially interested persons and organizations were contacted. Written replies and suggestions were considered and oral testimony solicited in a public forum. The guidelines were then amended and finally adopted in March, 1977, for the use of Medical Quality Review Committees, Administrative Law Judges, as well as to inform the medical community.

The Division recognizes that these penalties and conditions of probation are merely guidelines and individual cases will often necessitate variations in taking into account particular circumstances.

SECTION 2361(b): GROSS NEGLIGENCE.

Maximum: Revocation.

Minimum: Stayed revocation with five years' probation.

Conditions of Probation:

1. The respondent must successfully pass an examination geared toward the specific violation before he is permitted to resume practice on probation. The examination¹ must be passed within three years from the effective date of the decision.

2. Within the first 24 months of probation, the respondent must successfully complete a continuing education program approved in advance by the Division of Medical Quality or its designee, bearing a meaningful relationship to the violation.

3. Respondent must practice in a supervised, structured environment under the direct supervision of another licensee. Said environment must be approved by the Division or its designee.

4. If in the opinion of the trier of fact, after consideration of the record, and deemed to be appropriate, the respondent must submit to psychiatric evaluation and if recommended, treatment by a psychotherapist approved by the Division.

¹ Probationary order should either identify the type of examination (oral or clinical) or provide that the type of examination be at the option of the Division or its designee.

SECTION 2361(c): REPEATED SIMILAR NEGLIGENT ACTS.

This should be treated in the same manner as gross negligence with the following additional condition of probation included in the minimum penalty:

As a condition precedent to the staying of a revocation, respondent must successfully pass parts 2 and 3 of either the FLEX or CLEX examination plus an oral examination within three years of the effective date of the decision.

SECTION 2361(d): INCOMPETENCE.

This violation should be treated the same as Section 2361(c).

SECTION 2361(e): ACTS INVOLVING MORAL TURPITUDE, DISHONESTY, OR CORRUPTION.

Maximum: Revocation.

Minimum: Stayed revocation with 5 years' probation.

Conditions of Probation:

1. Participation in designated program bearing some relationship to the offense.²

SECTION 2361.5: CLEARLY EXCESSIVE PRESCRIBING OR ADMINISTERING OF DRUGS, TREATMENT, DIAGNOSTIC PROCEDURES, OR DIAGNOSTIC OR TREATMENT FACILITIES.

Maximum: Revocation.

Minimum: Stayed one year suspension with five years' probation.

Conditions of Probation:

1. Respondent must complete a continuing education course approved by the Division of Medical Quality, e.g., pharmacology, materia medica.

² The type of program, whether education or service oriented, should be appropriate to the needs of the particular situation. The condition of probation should require approval of the program by the Division.

2. Respondent must maintain a copy of each prescription (or evidence of other treatment or diagnostic orders) issued by him and make them available to a designee of the Division of Medical Quality.

3. Appropriate restrictions on prescribing privileges for controlled substances.

4. Certain cases, e.g., excessive use of diagnostic or treatment facilities, may warrant a supervised, structured environment.

SECTION 2361.8: WILLFUL FAILURE TO COMPLY WITH REQUIREMENTS OF MEDICAL LAWS AND REGULATIONS.

Maximum: Revocation.

Minimum: Stayed revocation with three years' probation.

Conditions of Probation:

1. Restitution.

2. Contribution of professional services on a regular basis to a community or charitable facility or agency.³

SECTION 2363: SUSPENSION OR REVOCATION BY ANOTHER STATE.

Maximum: Revocation.

Minimum: The minimum penalty should correspond to the same or a similar California violation.

SECTION 2373: PRACTICE DURING THE TERM OF SUSPENSION.

Maximum: Revocation is mandatory pursuant to Section 2373.

SECTION 2378.5: ILLEGAL CANCER TREATMENT.

Maximum: Revocation.

Minimum: 1 year stayed suspension with 3 years probation.

³ The type of facility and amount of hours should be specified in the order with the provision that the Division must approve the specific facility.

DEPARTMENT OF
Consumer Affairs

DISCIPLINARY ACTIONS

1/1/77-3/31/77

Allen, William Leroy, M.D.,
Santa Monica (A-12720)
2411, 2390 of the B & P Code
Self-administration of drugs and issuing
false prescriptions.
Revoked, stayed, 10 years probation with
terms and conditions.
February 1, 1977

Carey, Wesley S., M.D., Hayward
(20A-292)
2391.5, 2399.5 of the B & P Code
Violation of statutes regulating controlled
substances and prescribing drugs
without a good faith prior examina-
tion.
Revoked, stayed, 5 years probation with
terms and conditions.
March 21, 1977

Chizen, John Harold, M.D., Santa
Monica (G-5424)
2361(a), (d), (e), 2383, 490 of B & P
Code
Gross immorality and commission of act
involving moral turpitude. Sexual
advances to a patient, and a minor.
Revoked, stayed, 10 years probation with
terms and conditions.
March 7, 1977

Dickman, Edd Ralph, M.D., Los Angeles
(A-18913)
2390, 2391.5 of the B & P Code
Violation of statutes regulating controlled
substances, self-administration of
drugs.
Revoked, stayed, 7 years probation with
terms and conditions.
March 7, 1977

Eldon, David J., M.D., San Carlos
(C-21860)
2391.5, 2372 of the B & P Code
Self-administration of drugs.
Revoked, stayed, 8 years probation with
terms and conditions.
February 16, 1977

Fugman, Stanley David, M.D., Long
Beach (D-1751)
2383 of the B & P Code
Conviction of crime substantially related
to the qualification, functions and
duties of a physician, involving
moral turpitude.
Suspended 60 days, suspension stayed, 2
years probation with terms and condi-
tions.
March 21, 1977

Gibbons, John Leo, M.D., San Jose
(D-1709)
2384, 2383, 4390, 2391.5, 4320, 2361(e)
of the B & P Code
Self-administration of drugs, issuing false
prescriptions, violation of statutes
regulating controlled substances.
Revoked, stayed, 10 years probation with
terms and conditions.
March 28, 1977

Hatfield, Hugh, M.D., Atlanta, Ga.
(D-1738)
Voluntary surrender of license. Cannot
renew without Board's approval;
cannot reapply for three years.
March 22, 1977

Huard, George S., M.D., Marina del Rey
(D-1347)
2391.5 of the B & P Code
Violation of statutes regulating controlled
substances, violation of probation.
Revoked, stayed, 90 day suspension, 10
years probation with terms and condi-
tions.
March 21, 1977

Jenkins, John Richard, Jr., M.D.
(G 1713) Denver, Colorado
2361(b), 2361(e), 2372 of the B & P
Code
Gross negligence, failure to maintain his
duty post as anesthesiologist with
regard to a patient while said pa-
tient was under anesthesia.
Revoked.
February 16, 1977

Johnson, James Carl, M.D., Tujunga
(A-09065)
2391.5, 2399.5 of the B & P Code
Violation of statutes regulating controlled
substances, prescribing drugs with-
out good faith prior examination or
medical indication.
Suspended 180 days, stayed, 3 years pro-
bation with terms and conditions.
February 16, 1977

Quakenbush, James A., M.D., Los Gatos
(C-26372)
2361.5, 2391.5, 2399.5 of the B & P Code
Excessive prescribing or administering of
drugs, prescribing drugs for a habitue
or addict, prescribing drugs without
a good faith prior examination.
Suspended 30 days, stayed, 5 years pro-
bation with terms and conditions.
March 21, 1977

Reiner, Edwin, M.D., San Diego
(A-12145)
2392 of the B & P Code
Aiding and abetting unlicensed persons in
the practice of a system of treating
the sick and afflicted.
Suspended 90 days, stayed, provided no
further disciplinary within 1 year.
February 23, 1977

Robinson, Courtland, M.D., El Monte
(G-628)
125, 2392, 2399.5 of the B & P Code
Aiding and abetting unlicensed persons
in the practice of a system of treat-
ing the sick and afflicted, prescribing
drugs without a good faith prior
examination or medical indication.
Suspended 30 days, stayed, 3 years pro-
bation with terms and conditions.
February 18, 1977

Schroeder, Simon, M.D., Sherman Oaks
(A-027153)
2361(b), 2361(c) of the B & P Code
Gross negligence and incompetence, fail-
ure to recognize the necessity of ad-
ministering a narcotic antagonist and
providing emergency care prior to
discharging a patient.
Revoked, stayed, provided an examina-
tion is passed, 5 years probation
with terms and conditions.
January 28, 1977

Slocum, Wesley G., M.D., Riverside
(C-023733)
2383 of the B & P Code
Conviction of a crime involving moral
turpitude, presenting a false and
fraudulent claim form.
Revoked, stayed, 5 years probation with
terms and conditions.
March 7, 1977

Stallone, Victor, Jr., M.D., Albany
(A-10870)
2391.5, 2372, 4390 of the B & P Code
Self-administration of drugs, violation of
statutes regulating controlled sub-
stances.
Revoked, stayed, 10 years probation with
terms and conditions.
January 14, 1977

Sunseri, James, M.D., San Jose
(A-07057)
2399.5, 2372, 2391.5, 2384 of B & P
Code
Prescribing drugs without good faith
prior examination, violation of stat-
utes regulating controlled substances.
Revoked, stayed, 10 years probation with
terms and conditions.
February 18, 1977

Taylor, Lawrence H., M.D., Covina
(A-28172)
2361(a), 2392 of B & P Code
Aiding and abetting unlicensed persons
in the practice of a system of treat-
ing the sick and afflicted.
Six months suspension, stayed, probation
for 2 years with terms and condi-
tions.
March 21, 1977

DISCIPLINARY ACTION INFORMATION

For additional information about mat-
ters that are public record such as accu-
sations, decisions, disciplinary actions,
and stipulations, contact the BOARD OF
MEDICAL QUALITY ASSURANCE,
1430 Howe Avenue, Sacramento, CA
95825.

MEETING DATES

Meeting dates for the Board and its Divisions have been scheduled as follows. These are public meetings and physicians, as well as consumers, are invited.

| Date | Time | Location | Board and/or Division |
|---------|------|--|-----------------------|
| June 9 | 7 PM | 107 S. Broadway, L.A., Room 1012 | Div. Med. Quality |
| 10 | 9 AM | 107 S. Broadway, L.A., Rooms 1012, 1070 & Auditorium | All Divisions |
| 11 | 9 AM | 107 S. Broadway, L.A., Auditorium | Board |
| July 14 | 7 PM | Town & Country Hotel, San Diego | Div. Med. Quality |
| 15 | 9 AM | Town & Country Hotel, San Diego | All Divisions |
| 16 | 9 AM | Town & Country Hotel, San Diego | Board |

DISCIPLINARY GUIDELINES (Continued)

Condition of Probation:

1. The respondent is prohibited against treating cancer patients and is required to refer such patients to another physician.

2. Successful completion of continuing education program approved by the Division of Medical Quality dealing with cancer treatment.

SECTION 2380: DECEPTIVE ADVERTISING.

Maximum: One year suspension.

Minimum: 60 days stayed suspension with one year probation.

SECTION 2380.5: UNLAWFUL ADVERTISING (failure to designate licensee's own name).

Same as Section 2380.

SECTION 2381: ADVERTISING REGULATION OF MENSTRUATION.

The Division of Medical Quality is asking for repeal of this section.

SECTION 2383: CONVICTION OF FELONY OR ANY CRIME INVOLVING MORAL TURPITUDE.

Maximum: Revocation.

Minimum: Stayed revocation with three years' probation.

Conditions of Probation:

The conditions depend on the nature of the conviction and should be tailored to educate the offender to avoid a recurrence. The conditions should include a rehabilitation program tailored to the violation. In appropriate cases, the order should require psychotherapeutic treatment as recommended by a psychiatrist and approved by the Division of Medical Quality.

SECTION 2384: CONVICTION OF CHARGE OF VIOLATING LAWS REGULATING CONTROLLED SUBSTANCES.

Maximum: Revocation.

Minimum: Stayed revocation with five years' probation. The minimum period of probation in cases of self-use should be ten years.

Conditions of Probation:

1. Modification of federal drug permit, restricting prescribing and dispensing of controlled substances within the same category(s) as the abused drug(s).

2. Successful completion of a continuing education program approved by the Division of Medical Quality, directly related to the type of violation.

3. Practice limited to a supervised, structured environment.

4. In cases of self-use, the order should require psychotherapeutic treatment as recommended by a psychiatrist and approved by the Division of Medical Quality.

5. In cases of self-use, submission to periodic drug testing should be required.

6. Where appropriate, successful completion of an oral examination.

N.B. Absent extensive mitigation, an outright revocation should be imposed for the conviction of the illegal sale of controlled substances.

SECTION 2387: PROCURING A LICENSE BY FRAUD OR MISREPRESENTATION.

Revocation is the only suitable penalty inasmuch as the certificate would not have been issued but for the fraud or misrepresentation.

SECTION 2388: IMPERSONATION OF APPLICANT IN AN EXAMINATION.

Same as 2387.

SECTION 2390: UNLAWFUL SELF-USE, PRESCRIBING OR ADMINISTERING OF CONTROLLED SUBSTANCES AND ALCOHOL.

Maximum: Revocation.

Minimum: Stayed revocation with five years' probation.

Conditions of Probation:

1. Abuse of drugs—same as Section 2384.

A. Successful completion of a continuing education program, related to the physician's specialty, approved by the Division when appropriate.

2. Abuse of alcohol—same as Section 2384 with the following additional conditions:

A. Participation in Alcoholics Anonymous or a similar rehabilitation program approved by the Division.

B. Abstinence from use of alcohol.

C. Successful completion of a continuing education program, related to the physician's specialty, approved by the Division when appropriate.

D. Successful completion of oral examination, where indicated, as prescribed by Division of Medical Quality.

SECTION 2391: UNLAWFUL PRESCRIPTION, SALE OR FURNISHING OF NARCOTICS TO AN ADICT.

Maximum: Revocation.

Minimum: Stayed revocation with five years' probation for sale and three years probation for furnishing.

Conditions of Probation:

1. Same as Section 2384.

2. Successful completion of a continuing education program, approved by the Division of Medical Quality, dealing with narcotics abuse.

SECTION 2391.5: VIOLATION OF ANY FEDERAL OR STATE STATUTE OR REGULATION REGULATING NARCOTICS, DANGEROUS DRUGS OR CONTROLLED SUBSTANCES.

Same as Section 2384.

SECTION 2392: EMPLOYMENT OR AIDING AND ABETTING OF A SUSPENDED OR UNLICENSED PRACTITIONER.

Maximum: Revocation.

Minimum: Stayed revocation with two years' probation. Contribution of professional service on a regular basis to a community or charitable facility or agency.⁴

SECTION 2393: IMPROPER USE OF A FICTITIOUS NAME.

Maximum: Six months' suspension.

Minimum: 30 days' suspension, stayed, with one year on probation.

The usual conditions of probation set forth below would appear sufficient.

SECTIONS 2396, 2396.6 AND 2397: MISUSE OF SUFFIXES M.D. AND D.O.

Maximum: Same as Section 2393.

Minimum: Same as Section 2393.

⁴ See Section 2361.8 Footnote #3.

SECTION 2399: EMPLOYMENT OF CAPPERS OR STEARERS.

Maximum: Revocation.

Minimum: Stayed revocation with three years' probation.

Conditions of Probation:

Actual 60 days' suspension.

SECTION 2399.5: UNLAWFUL PRESCRIBING, DISPENSING, OR FURNISHING DANGEROUS DRUGS WITHOUT A GOOD FAITH PRIOR EXAMINATION AND MEDICAL INDICATION.

Maximum: Revocation.

Minimum: Stayed revocation with five years' probation.

Conditions of Probation:

1. Successful completion of a continuing education program, approved by the Division of Medical Quality, related to the prescribing practices for which the licensee is disciplined.

2. Restriction of federal drug permit to prohibit prescribing or administering controlled substance within the classification(s) of those drugs involved in the violation.

SECTION 2411: MAKING OR SIGNING FALSE CERTIFICATES OR DOCUMENTS.

Maximum: Revocation.

Minimum: Stayed revocation with three years' probation.

Conditions of Probation:

1. Contribution of professional services on a regular basis to a community or charitable facility or agency when the respondent has profited financially by fraud or misrepresentation.⁵

2. Restitution if condition 1 above applies.

⁵ See Section 2361.8 Footnote #3.

THE FOLLOWING CONDITIONS OF PROBATION SHOULD APPEAR IN ALL DISCIPLINARY ORDERS WHERE PROBATION IS GRANTED:

Respondent shall:

1. Obey all laws and rules and regulations regulating the practice of medicine.

2. Provide quarterly reports to the Division of Medical Quality verifying that respondent has complied with all conditions of probation.

3. Upon at least 15 days notice from the Division of Medical Quality, appear annually before a Medical Consultant of the Division of Medical Quality, the first appearance within 90 days of the effective date of this order.

4. Comply with the probation surveillance program of the Division of Medical Quality.

Unless expressly waived by the Division of Medical Quality in writing, the entire period of probation must be served within the State of California.

It should be stressed that *repeat violators* and *probationers* who violate their probation should be treated most harshly with the imposition of the *maximum* disciplinary order absent dire extenuating circumstances.

CONTINUING EDUCATION

By now all licensed physicians in California should have received a copy of the Division of Licensing's Emergency Regulations regarding continuing education for relicensure. The Division held a public hearing in conjunction with their May 13, 1977 Board meeting in Fresno during which additional written and oral testimony were considered. Because of the input that we have received there will be some changes made in the regulations you have received. These changes will be detailed in the next Action Memo together with instructions on how to report continuing education completed. Additionally, there will be information detailing the procedure by which the Division will approve continuing education courses which have not received Category I credit by the California Medical Association, American Medical Association or American Academy of Family Practice.

THE USE OF HCG IN WEIGHT REDUCTION

The Journal of the American Medical Association dated November 29, 1976, cites a research report regarding HCG in the management of obesity. This report describes a study of 200 obese individuals. All were given 500 calorie per day diets. Half were given HCG injections, the other half a placebo. There was no statistical significant difference between those receiving HCG versus placebo during the study. The 1973 AMA Drug Evaluation handbook states: "Use of this agent as an aid to weight reduction is unjustified because of lack of evidence of effectiveness and safety."

RESPONSIBILITY FOR NOTIFICATION OF CHANGE OF ADDRESS

This is to remind all licentiates of the Board of Medical Quality Assurance that it is the *licentiate's* responsibility to file his or her proper mailing address with the Board and to report immediately any change of address, giving both the old and new addresses. (Title 16, Section 1304, of the Government Code)

INFECTIOUS DISEASE REPORTING REQUIREMENTS

The January 28, 1977 issue of the Department of Health's weekly *California Morbidity* reminds the physicians of reporting requirements in infectious diseases. Physician negligence in proper reporting may subject persons other than their patients to harm if such persons are exposed to and contract an infectious disease. Reprints of this timely article may be requested of the Department of Health, 2151 Berkeley Way, Berkeley, CA 94704.

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

Allied Health Professions (916) 322-5043
Applications and Examinations (916) 322-5240
Continuing Education (916) 322-5030
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