



ACTION REPORT

BOARD OF MEDICAL QUALITY ASSURANCE

No. 10—April 1979

PHYSICIAN REPORTING LAWS

This is the first of three articles dealing with the licensing of medically impaired drivers in California. Subsequent issues will provide information on the relationship of chronic medical conditions to traffic accident involvement, and the practices and policies employed by California's licensing agency, the Department of Motor Vehicles, in determining medical fitness to drive.

The final decision as to whether a medically impaired driver qualifies for the license is the responsibility of the Department of Motor Vehicles (DMV). The driver's ability to exercise reasonable and ordinary control in the operation of a motor vehicle despite impairment is the key to their determination. To ensure appropriate licensing control, the Department must rely heavily on the medical profession for the identification of potentially hazardous medical conditions.

Recognizing the medical profession's vital role in the promotion of traffic safety, the Legislature established laws as early as 1939 requiring physicians to report patients with conditions likely to cause lapses of consciousness or control. These laws require all physicians to immediately report in writing to the local health officer, who then reports to the State Department of Health Services.

The State Department of Health Services forwards the reports to the DMV for its confidential use in determining the eligibility of any person to operate a motor vehicle on the highways of this State. The present reporting regulations are set forth in Section 410 of the California Health and Safety Code, and in Section 2572, California Administrative Code, Title 17.

Section 410, California Health and Safety Code:

The State Department of Health Services shall define disorders characterized by lapses of consciousness for the purpose of the reports hereinafter referred to:

1. All physicians shall report immediately to the local health officer in writing, the name, date of birth, and address of every person diagnosed as a case of a disorder characterized by lapses of consciousness.

2. The local health officer shall report in writing to the state department the name, age, and address, of every person reported to it as a case of a disorder characterized by lapses of consciousness.
3. The state department shall report to the State Department of Motor Vehicles the names, dates of birth, and addresses, of all persons reported as a case of a disorder characterized by lapses of consciousness by the physicians and local health officers.
4. Such reports shall be for the information of the State Department of Motor Vehicles in enforcing the provisions of the Vehicle Code of California, and shall be kept confidential and used solely for the purpose of determining the eligibility of any person to operate a motor vehicle on the highways of this State.

Section 2572, California Administrative Code, Title 17: As required in Section 410 of the Health and Safety Code, the definition as to what shall constitute a reportable case of a disorder characterized by lapses of consciousness shall be as follows:

Any person aged 14 years or older who during the preceding three years, has experienced on one or more occasions, either a lapse of consciousness or an episode of marked confusion, caused by any condition which may bring about recurrent lapses, including momentary lapses of consciousness or episodes of marked confusion, shall be considered to have a disorder characterized by lapses of consciousness and shall be reportable. This definition includes, but is not limited to, persons subject to lapses of consciousness or episodes of marked confusion resulting from neurological disorders, senility, diabetes mellitus, cardiovascular disease, alcoholism or excessive use of alcohol sufficient to bring about blackouts (retrograde amnesia for their activities while drinking).

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REPORTING LAWS ...

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Clearly, a wide variety of conditions are reportable. Seizures caused by brain tumor, hemorrhage due to trauma, abnormalities such as porencephaly or hydrocephalus, circulatory disturbances such as Strokes-Adams syndrome, thrombosis, and carotid sinus stimulation, attacks caused by convulsive drugs, inflammations such as neurosyphilis and encephalitis all fall within the reporting requirements of the law.

In the final analysis, of course, the physician must assess the case at hand: is it reportable or not? Loss of consciousness which has a tendency to recur should be the physician's guide. The intent of the law is to mandate reporting of patients having any condition which has caused even one lapse of consciousness or episode of confusion (within the preceding three years and which may be recurrent). In other words, unless the physician can categorically state that the condition cannot possibly cause recurrent lapses, it should be reported.

LICENSE VERIFICATIONS

The Board of Medical Quality Assurance announces an improved system for verification of license status. The new system is computer assisted and will provide more timely and accurate information than in the past.

When an agency requests verification of licensure, in writing, from the Board, we ask that they include the reference number and or the license number of the individual for whom verification is being requested. This data will then be input into our computer which will print a list of the licenses verified. The list will be in alphabetical order and includes address, year first licensed, expiration date and status of the license.

Each hospital or agency who requests license verification will receive a letter explaining the new system in detail and requesting their cooperation in supplying either the reference number or the license number of the person for whom they are requesting verification of license status.

NEW APPOINTMENTS

Governor Brown appointed Ms. Anne Salisbury to the Board of Medical Quality Assurance. Ms. Salisbury will serve on the Division of Allied Health Professions. She is the director of the Women's Need Center in San Francisco. Her term expires June 1, 1980.

Mr. Ben Winters has also been appointed to the Board of Medical Quality Assurance and will serve on the Division of Medical Quality. Mr. Winters is a Corporate Management Consultant from Los Angeles. He replaces Blanche Bersch and his term expires June 1, 1980.

GOOD FAITH PRIOR EXAMINATION

A number of inquiries have been directed to the Medical Board by physicians regarding the section in the Business and Professions Code which deals with prescribing, dispensing or furnishing dangerous drugs without a good faith prior examination and medical indication (B&P Code Section 2399.5).

A new law which became effective January 1, 1979, amended this section of the code and will substantially clarify the questions regarding the furnishing of dangerous drugs to patients by the "on call" physician. The amendment provides that a physician will not have committed unprofessional conduct if drugs are provided by the physician in one of these particular circumstances.

The particular circumstances at the time the physician prescribes the drugs are:

1. When the physician is a designated "on call" physician serving in the absence of the patient's physician and the drugs are prescribed, dispensed or furnished only as necessary to maintain the patient until the return of his or her physician, and in no case longer than 72 hours.
2. The designated "on call" physician transmits the order for the drugs to a registered nurse in an inpatient facility who has the patient's medical record at hand provided that the designated physician consults with the registered nurse who has reviewed the patient's record.
3. The designated physician is in possession of, or has utilized the patient's records and orders the renewal of a medically indicated prescription for an amount not to exceed the original prescription in strength or amount, nor for more than one refill.

The statute as amended continues to be primarily aimed at those physicians who prescribe large quantities of dangerous drugs, including controlled substances to persons they have not physically examined and who have no medical indication which would warrant the prescribing of such drugs. Very often such persons may be addicted to or abuse the drugs which are furnished them, or they may sell them to other persons.

NUTRITIONAL ADVICE

SB 1790, effective January 1, 1979, specifies that providing nutritional advice does not constitute the practice of medicine, so long as it is just that, "nutritional advice". This legislation confers no authority to undertake the prevention, treatment, or cure of disease, pain, injury, deformity, or mental or physical condition or to state that any product might cure any disease or disorder.

NOTICE—TRIPLICATE PRESCRIPTION BLANKS

A correction is being made to our January 1979 Action Report article giving the telephone number to use in ordering triplicate prescription blanks.

The telephone number regarding information on triplicate prescription blanks is (916) 445-9544.

Information can be obtained by writing to:

Department of Justice
Enforcement and Investigation Branch
P. O. Box 13327
Sacramento, CA 95813

DISCIPLINARY ACTIONS NOVEMBER 1, 1978-JANUARY 1, 1979

- Bell, Ralph S., M.D. (G-7465)** - Kings Point, NY
490, 2363, 2383 B & P Code
Federal conviction in New York for medicaid fraud.
Disciplined by New York medical board.
Revoked, stayed, five years probation with terms and conditions.
December 11, 1978
- Boettjer, Robert L., M.D. (G-3558)** - San Francisco
2384 B & P Code
Federal conviction, affirmed by federal court of appeals, for unlawfully prescribing Quaalude and other drugs to many for no legitimate medical purpose.
Revoked.
December 21, 1978
- Brown, Willie Lee, M.D. (C-21311)** - Fresno
2411 B & P Code
Knowingly made false statements in billings to Medi-Cal.
Decision of 10-22-76 recently upheld by California court of appeals.
Suspended six months, stayed, three years probation with terms and conditions.
December 21, 1978
- Chamberlain, Rodney D., M.D. (G-494)** - Palo Alto
2399.5, 2391.5, 700, 2361(b) and (d), 2384 B & P Code, 11154, 11156 H & S
Two separate convictions for violations of drug statutes: prescribing without good faith examination and medical indication; prescribing dangerous drugs to a person known to be an habitual user; excessive prescribing of Ascocdeen; gross negligence and incompetence.
Revoked.
December 21, 1978
- Davis, William S., M.D. (C-15017)** - Los Molinos
2390 B & P Code
Violation of probationary condition prohibiting the use of alcohol. Conviction for driving under the influence of alcohol, resulting in injury.
Revoked, stayed, ten years probation with terms and conditions.
December 21, 1978
- Dickerman, Joseph A., M.D. (C-14190)** - North Hollywood
2399.5, 2391.5 B & P Code, 11154 H & S
No good faith examination, no medical indication for prescribing controlled drugs to persons not under his treatment for pathology or condition.
Revoked, stayed, 5 years probation with terms and conditions.
December 21, 1978
- Dixon, David George, M.D. (G-5251)** - Corona
2361(f), 2383, 2399.5, 490 B & P Code
Conviction for receiving stolen goods.
Also, prescribing controlled drugs without good faith examination and medical indication.
Revoked, stayed, five years probation with terms and conditions.
December 21, 1978
- Hale, Fredric A., M.D. (A-10611)** - Sacramento
2361(a), (e), and (f) B & P Code
Sexual misconduct with patients.
Revoked, stayed, 5 years probation with terms and conditions.
December 21, 1978
- Hannon, Donald W., M.D. (C-18437)** - St. Paul, MN
2363 B & P Code
Indefinite suspension of Minnesota license by Minnesota medical board.
Revoked.
November 20, 1978
- Lavorgna, Lorenzo Sebastian, M.D. (G-31488)** - New York, NY
2383, 490, 2361(e) and (f) B & P Code
Stipulated decision. Conviction involving sexual misconduct.
Revoked, stayed, five years probation with terms and conditions.
December 21, 1978
- Lovell, Harry O., M.D. (A-05463)** - Vista
2399.5, 2361(a), 2361.5 B & P Code
Stipulated Surrender of Certificate, accusation dismissed.
November 17, 1978
- Low, Leslie Y., M.D. (A-12652)** - Stockton
2361.5, 2361(a), 4232, 2391.5 B & P Code, 11190, 11191, 11152, 11171 H & S
Stipulated decision. Excessive prescribing; prescribing without good faith examination and medical indication; failure to maintain records of disposition of dangerous drugs.
Revoked, stayed, ten years probation with terms and conditions.
December 11, 1978
- Lyon, Harvey B., M.D. (A-11921)** - Nevada City
2391.5, 2384 B & P Code, 11172, 11156 H & S
Conviction for prescribing large quantities of Percocan to a person known by him to be an habitual user; antedating and postdating prescriptions.
Suspended one year, stayed, 5 years probation with terms and conditions.
December 21, 1978
- McClure, Ross T., M.D. (G-824)** - South Laguna
2361(d) and (e), now 2361(e) and (f) B & P Code
Stipulated decision. Sexual misconduct with patient.
Revoked, stayed, five years probation with terms and conditions.
December 20, 1978
- Monosson, Ira H., M.D. (G-8898)** - Los Angeles
2391.5, 4290, 2390 B & P Code, 11368 H & S
Stipulated decision. Issued false prescriptions to obtain controlled drugs for self use.
Revoked, stayed, ten years probation with terms and conditions.
December 11, 1978
- Ravenna, Joseph, Jr., M.D. (G-7767)** - La Mirada
2361(e), 2361(a), 2411 B & P Code, 556 insurance Code
Stipulated decision. Made and filed false claims to insurance company for medical services that were not performed.
Revoked, stayed, three years probation, suspended 60 days, other terms and conditions.
December 21, 1978
- Rieber, Saul Michael, M.D. (A-21003)** - Ukiah
2390, 2361(f), 2391.5 B & P Code, 11154, 11155, 11157, 11172(a) H & S
Issued false prescriptions to obtain controlled drugs for self use. Impairment of ability to practice safely through extensive self use of dangerous drugs. Violated conditions of probation.
Probation is terminated; order conditionally restoring previously revoked certificate is repealed; certificate is revoked.
November 20, 1978
- Robinson, Wayne Lester, M.D. (C-24438)** - Irvine
2361(d) and (e) B & P Code
Stipulated decision. Conviction for solicitation to commit murder.
Revoked, conditional stay, three years probation with terms and conditions.
December 21, 1978
- Rodas, Jesus M., M.D. (C-15619)** - Los Angeles
2399.5, 2391.5 B & P Code
Prescribing dangerous drugs to persons he knew were addicts.
Revoked, conditional stay, five years probation with terms and conditions.
December 21, 1978
- Rose, Lawrence, M.D. (G-5865)** - San Francisco
2361(e), 2383 B & P Code
Stipulated decision. Federal conviction for making false statements to customs officials at Canadian border by his failure to declare in his possession two kilograms of Ergotamine Tartrate, a dangerous drug.
Revoked, stayed, six years probation with terms and conditions.
November 23, 1978
- Shear, Lawrence, M.D. (A-22317)** - Santa Ana
Stipulated decision. Excessive prescribing; prescribing without good faith examination and medical indication.
Revoked, stayed, seven years probation including 180 days actual suspension and other conditions.
November 21, 1978
- Smith, Seymour P., M.D. (A-6581)** - San Francisco
2399.5, 2391.5 B & P Code
Stipulated Surrender of Certificate, accusation dismissed.
November 17, 1978
- Ubl, Adrian H., M.D. (C-15681)** - Santa Ana
2391.5 B & P Code
Stipulated decision. Violated probation by self-administering Demerol.
Revoked, stayed, ten years probation including 75 days actual suspension and other conditions.
December 15, 1978
- Warren, Alois Peter, M.D. (A-10992)** - New York, NY
2383, 2363, 490 B & P Code
Federal conviction in New York for the unlawful sale of a supply of Amphetamine Sulphate to an undercover agent.
Licenses in New York and New Mexico were subject to discipline.
Revoked, stayed on satisfaction of conditions, five years probation with terms and conditions.
November 23, 1978

MEDICAL ASSISTANTS: WHAT DOES THE LAW REQUIRE?

The State of California does not license or register Medical Assistants (MA), nor does it require any certification such as those given by private training programs, to be a Medical Assistant. In fact, any physician or podiatrist may train an MA in the office. In addition to the general office tasks assistants perform, MA's may do the following procedures under direct or indirect supervision: Injections—intramuscular, intradermal and subcutaneous; skin tests, such as tuberculin tine or allergy "scratch" tests; skin puncture and venipuncture to collect blood specimens. MA's are permitted to perform no other medical procedures, except that they may receive a Limited Permit X-Ray Technician certificate through the State Department of Health Services, Radiologic Health Section, 2151 Berkeley Way, Berkeley, CA 94704.

Indirect supervision means that the physician or podiatrist must be physically present in the treatment facility during the performance of the procedure, but need not observe the procedure. Authorization for the

procedure must be a direct order or a standing order, and must be noted in the patient's medical record.

If an MA is trained in a medical or podiatry office, (s)he must receive a minimum of ten hours of training in each group of procedures (injections and skin tests, or skin and venipuncture), and must perform each procedure successfully ten times under supervision. The physician or podiatrist giving the training must certify in writing that the training and supervised practice requirements have been met, and this certification must be placed in the assistant's employment records. If the training occurs in a formal training program, a copy of the certificate of training should be placed in the employment records of each employer.

For additional information, or copies of the law and regulations for Medical Assistants, contact the Board of Medical Quality Assurance, Division of Allied Health Professions, 1430 Howe Avenue, Sacramento, CA 95825, or phone (916) 920-6349.

THE PHYSICIAN'S RESPONSIBILITY TO GIVE A WRITTEN RECORD OF IMMUNIZATIONS ADMINISTERED

The California Health and Safety Code requires any person or organization administering immunizations shall furnish each person immunized, or his or her parent or guardian, with a written record of immunization given in a form prescribed by the state department (H&S Code, Section 3387).

The California Administrative Code requires documentary proof by written record given to the person immunized or his or her parent or guardian by the physician or agency performing the immunization which shall contain:

1. Name of person
2. Birthdate
3. Type of vaccine administered
4. Date of each immunization

5. Name of physician or agency administering the vaccine (Administrative Code, Section 6065).

Supplies of the California Immunization Record are available free from county health departments or from the State Department of Health Services, Immunization Unit, 2151 Berkeley Way, Berkeley, CA 94704.

MULTIPHASIC SCREENING UNIT TEST RESULTS

Immunity from liability is granted to health care providers failing to respond to unsolicited referrals arising from tests performed by multiphasic screening units in certain situations, as specified in Section 43.9 of the Civil Code, added by SB 2111, effective January 1, 1979.

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

BULK RATE U. S. POSTAGE PAID Sacramento, CA PERMIT NO. 685

Allied Health Professions (916) 920-6347
Applications and Examinations (916) 920-6411
Continuing Education (916) 920-6353
Disciplinary Information (916) 920-6363
Fictitious Names and Corporations (916) 920-6353
Verifications of Licenses (916) 920-6343