



Department of Consumer Affairs

# ACTION REPORT

BOARD OF MEDICAL QUALITY ASSURANCE

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## DRUG PRESCRIBING—HOW TO AVOID PROBLEMS WITH BMQA

An interview with Joseph P. Cosentino, M.D., Chief Medical Consultant, Board of Medical Quality Assurance which appeared in the May/June 1982 issue of California F.P.

### Introduction:

*Many articles have been written recently about the Board of Medical Quality Assurance. This interview covers only one phase of their activity—drug prescribing. Drug prescribing accounts for about one-third of the 4,000 complaints BMQA receives each year from patients, hospitals, pharmacists and other physicians. This area is of special interest to physicians because it involves a sizeable "gray area." Every physician who becomes an alcoholic, drug user, assaults or abuses a patient, knows they may end up going to jail or losing their license; however, the question of when prescribing may get them into trouble is much less clear. It is hoped that Dr. Cosentino's remarks will offer physicians some useful guidelines.*

**Physicians may feel comfortable in what they are doing medically and ethically in prescribing—but still worry that BMQA may come after them. Where does BMQA draw the line?**

The Schedule II controlled substances are the drugs which have the greatest potential for abuse. The non-narcotic group of Schedule II controlled substances are the drugs which, when prescribed excessively, will get BMQAs attention. These drugs include Ritalin, Quaalude, the amphetamines and short-acting barbiturates. None of these drugs should ever be prescribed without adequate examination and evaluation. This also holds true for some drugs in Schedule III and IV, such as the codeine combination drugs, Doriden, Dalmane, Darvon, and the tranquilizers. It should also go without saying that unusual Schedule II narcotic prescribing can get a physician in trouble.

**What constitutes an adequate examination? Are we talking about a half-hour physical? Or is this something that can be done in a ten minute office visit?**

The BMQA does not set guidelines for what is an adequate examination. The law states that prescribing, dispensing, or furnishing drugs without a good faith prior examination and medical indication may result in disciplinary action. Depending upon the circumstances, a five minute examination may be a good faith examination, whereas, in a complicated medical case, a one hour examination may be required.

All examinations should include a drug history when prescribing these drugs that have a high potential for abuse. It is important that the physician know the number and types of drugs being taken by the patient, and to note any drugs which are being taken in unusually high dosages. The BMQA does not tell a physician how to practice medicine, nor does it tell a physician how much time to spend with a patient. If a patient is seen for the first time with a primary complaint of pain which may require a Schedule II or III drug, I suggest the physician take an adequate history and make proper notation of the evaluation on the patient's medical record. Our medical consultants see an inordinate number of medical records which are of poor quality and which are inadequate. If a patient comes to the physician requesting a particular controlled substance, a red flag should go up telling the physician that this patient may be a drug abuser. Our medical consultants have reviewed a number of cases where the physician's first question is, "What drug do you want?" rather than "What's wrong with you?"

**Would you routinely require lab work?**

I don't think I can answer this question. So many circumstances will

depend upon the need for certain laboratory studies. If a physician is going to prescribe a drug, for example Butazolidin, which has properties which may have potential adverse effects on the hemopoietic system, then I believe baseline laboratory study is indicated.

**What about the patient with a chronic back problem who requires medication to function—and will probably be on medication the rest of their life?**

To protect myself and also the patient, I would send in the "patient report card" which will register the patient with the Bureau of Narcotic Enforcement. This is required by law to be reported for habitual users of controlled substances. This includes all drugs in Schedule II through V. Physicians should have no hesitancy in using the reporting mechanism. It is the best means of identifying the patient who is going to a number of doctors for the same drug. So, first of all, report the patient. Secondly, send the patient to a colleague or consultant every year or so, just to confirm that what you are doing is acceptable practice as well as confirming that no other alternatives exist. Thirdly, see the patient every three to six months and make an evaluation.

I'm talking about the patient who has had three laminectomies and requires eight to ten Empirin Compounds No. 4 a day. We have a responsibility to take care of these patients so they can lead a comfortable life. Are they habitual users or addicts?

The way to differentiate the habitual user from the addict is that the patient with addiction will have withdrawal symptoms. The habitual user may be off the medication a while, have pain again, and go back to the drug—whereas, the addict, whether he has pain or not, is going to require the drug.

Once I've documented the need for the drug, I'd probably have the patient come in every three months. Making phone refills on Schedule III drugs, when you

haven't seen the patient in a year, is poor practice. By law, the pharmacist cannot refill more than five prescriptions in a six month period.

I want to point out that so far we have been talking about the *exceptional* case—the patient where presumably there is nothing more that can be done. This type of case usually doesn't get a doctor into trouble.

The doctor is more likely to get into difficulties with the far more common kind of patient. The routine case comes in with a low back problem. It may be a real or imaged problem. You carry them for six months and give them a pain medication month after month. You should put on the brakes and evaluate this patient. "Does this patient really need this much pain medication?" "Do I need consultation?" "Should somebody else come in—a neurologist, surgeon, internist, psychiatrist, or should I refer the patient to a pain clinic?" The physician is usually suspect when he has a large number of chronic pain patients in his practice who require strong pain medication. Very often the patients come from long distances and think their doctor is the greatest. Is this physician a scriptwriter, or is he really a well-intentioned physician whose reputation has been circulated that he is an "easy mark?"

Documentation is important. The physician should maintain an adequate medical record on these patients. If the physician describes the patient's problems, the indications for the medication, periodic consultation reports, complete periodic entries in the patient's medical record, and a record that the patient has been reported, the physician will be in good shape if an agency were to review his drug prescribing.

**You would not carry a patient for six months even though you had given them a rather thorough examination the first time?**

No. Not unless I really knew there was serious disease and it was irreversible. I'm always concerned with carrying patients over a long period of time with controlled substances. Sometimes these patients take more time than the family physician may want or be able to give. There are more and more well respected pain clinics that specialize in evaluating these people and, for some patients, perhaps that would be the right referral. All I have said about caution in treating the patient with back pain can also be said about treating the patient with sleep disorders and migraine. Patients with these disorders will often get into difficulty with drug abuse.

**In your Guidebook, it states: "Avoid writing prescriptions for large quantities of controlled substances**

**unless you are absolutely sure that such quantities are necessary." What do you mean by "large quantities"?**

Again, in answer to this question, it requires prudence on the physician's part and individual evaluation of patients. Schedule III Codeine combination drugs cannot be refilled more than five times in six months. Therefore, the law assists you in determining that one prescription per month should not be written for an amount that is greater than that patient's monthly dosage which you have outlined. Remember that Schedule II drugs have more potential for abuse than Schedule III drugs, and Schedule III drugs have more potential for abuse than Schedule IV, etc.

**Where would you get into trouble on Schedule III?**

It's dangerous to try to give you a cookbook figure on Schedule III drugs. There are patients that are going to need prolonged Empirin 2s, 3s or 4s. The answer is to individually pattern the dosage to the severity of the problem. For the cautions, I believe we have already covered this area.

**I think many people are confused on that.**

Maybe so—but that's where judgment comes in. Some of the regulations promulgated by the Department of Health Services have encouraged bad medical practice. Let me give you an example of an actual case. A good doctor was taking calls for another good doctor. A patient called on the weekend and wanted a prescription. On the basis that it was a Medi-Cal patient, the prescription was filled for 100 Seconals. This patient was suicidal. The patient took all 100 Seconals and died—a 21 year old girl. The "on-call" physician was not aware of the kind of patient with which he was dealing.

Even though Medi-Cal, on the basis of economy, recommends the most economical amounts, I would be careful about prescribing large amounts of controlled substances because of their abuse potential. If somebody called me saying they needed a sleeping pill, and I wasn't sure about the patient, I would prescribe a small amount—maybe six—enough to take care of the situation until the patient's own physician could take over. I would be concerned about prescribing for any patient who has been on sleeping pills on a long-standing basis, without consultation and adequate support information.

**Could you give me an example on Schedule III that would surely raise a red flag with BMQA?**

Writing something over 100 Schedule III codeine combinations, month-after-

month, without adequate indication, may tip off excessive prescribing. It's how often you refill the 100 that we watch—100 refilled every three weeks, time after time, would certainly mean that either the physician wasn't using good judgment as far as re-evaluation of the patient, or that he was an easy mark about renewing prescriptions.

**Are many of these physicians just nice guys?**

We have two kinds of doctors who get into trouble—"script doctors" and "well-intentioned doctors." The "well-intentioned" doctor may appear as a "nice guy," but he is really naive or, in some cases, not keeping up with present day prescribing standards. The "script doctor" is one who usually knows he is breaking the law and writes prescriptions for controlled substances purely for profit.

When I was a medical consultant, I interviewed a physician who was 92 years old, still practicing. I would ask for a record and he would give me a manila folder that had one piece of paper in it. The history and physical was one word—"pain." He would say, "look at the people in my office—there isn't room enough—I have to get some more chairs." They were the drug culture people. The word gets around immediately when you are an easy mark. I said, "look doctor, we are going to have to proceed against you. Why don't you close the door and enjoy life." He had his legs up on the desk because they were swollen. He said, "you go to hell. I'm practicing good medicine." Well, the case got more serious; I went back to see him and he was unhappy enough to say, "I'm going to close my door and go gold-mining in Nevada." At 92, he did that, but at least he stopped writing all those prescriptions for the drugs of abuse.

It's too bad when we have to go in and sanction a physician who has an illustrious past. It destroys him and doesn't leave you with a very good feeling. It is no easy job to balance the right of the physician to practice medicine against the right of the public to be protected.

**Is a physician ever disciplined on the basis of a single case?**

Not in drugs. It has to be a pattern. There is never a case made on a single undercover operator "buy" of a particular drug. It takes multiple operators and multiple "buys." We don't particularly like the process, but that's the only way we can document a drug case because the law states that it takes a patient complaint in order to review a patient's office record. A physician could be cited on a single case if he prescribed a large number of controlled substances without an exam or

indication. The patient then overdosed and died, or was left with irreversible damage. This is not only a case of overprescribing, but also one which demonstrates gross negligence.

**Do you have any trouble separating "negligence" from "gross negligence" when a malpractice settlement or award is reported to you?**

Yes. The measurement has to be made by peers in the community. We require two expert opinions which agree that there is a violation of law. If both agree that there is "gross negligence" and/or incompetence, we will proceed with an action. Otherwise, if there is disagreement in the two opinions, we will not proceed. We close the case. We do not continue to look for an expert to say what we want him to say.

**How are you made aware of unacceptable prescribing?**

We do not arbitrarily go on with hunting junkets or randomly use undercover operators. There has to be a complaint either by a patient, a pharmacy, another physician, an emergency room or a hospital. Pharmacists are in the best position to see abuse. Computer printouts of excessive prescribing of Schedule II drugs will also be a major source of identification.

**Is your auditing of pharmacies a big source?**

No, not really. We do not audit pharmacies on a routine basis unless we are made aware that a physician is excessively prescribing. The Board of Pharmacy has inspectors that routinely do pharmacy audits. We did carry on a pilot project in a central California community. Pharmacy audits there identified 16 physicians who were excessively prescribing primarily short-acting barbiturates. With the cooperation of the regional medical society, the medical quality review committee, and one of our medical consultants, we carried on an educational exercise and individual interviews on a voluntary nondisciplinary basis. We made recommendations regarding their prescribing habits. We went back in six months and found that 15 of the 16 had corrected any over-prescribing tendencies. This was a rewarding nonthreatening experience that we may wish to carry out in other California communities.

**How do you arrive at your standards as to what is acceptable?**

We use the recognized pharmacology texts such as Goodman & Gilman, and, also, what's recommended in the PDR. If one of our medical consultants reviews a

case and feels there is a question about whether there is excessive prescribing, we'll have the records reviewed by an outside expert—someone in the field who practices clinical medicine and understands prescribing standards. If they say, "yes, this is excessive," then we will proceed and file an accusation. It is our evidence against the evidence that the physician presents.

We make the initial determination, but our medical consultants do not testify at hearings. Experts, people who are practicing in the community, will testify at the hearing.

**Do your medical consultants ever contact a physician to see if he can explain something in a gray area?**

Yes, very often we will interview the physician, especially in borderline cases. The "well-intentioned" physician who needs an explanation and education will be requested to discuss his prescribing habits with one of our medical consultants in a non-threatening, voluntary kind of atmosphere. The end result is an attempt to get the physician to practice better medicine by using nonpunitive methods. The true "scriptwriter" is not afforded this opportunity because the only way we can collect legal evidence is through undercover operations. One problem we have is that we are not always sure of whether we are dealing with the "well-intentioned" or the "scriptwriter" until we have completed the investigation.

**We hear stories about physicians being arrested in their offices and taken out in handcuffs by the BMQA investigators. Why does this happen?**

Yes, this is true, but we are blamed for procedures that are not of our making. Local law enforcement agencies have their individual rules regarding the procedures to be carried out in criminal cases. These rules are locality dictated rules which our investigators are committed to carry out. Unfortunately, the doctor who is cited on a criminal charge must be handled no differently than the electrician, carpenter, engineer, or even the attorney who is cited on criminal charges. Our investigators have peace officer powers and must abide by the respective county rules. Orange, Los Angeles, Fresno, Tulare, Madera and Santa Clara counties, to name but a few, will not accept an arrested person regardless of who he or she is unless they are handcuffed. Whether you are handcuffed or not does not depend on the nature of the crime for which you are arrested, but depends on the county in which the arrest occurs.

**Some physicians have complained that they didn't know about the charges until they read them in the newspaper.**

Unfortunately this has occurred on two occasions that I know of, and the only answer to this sad occurrence is that the instances were bureaucratic "goofs." Our present procedure, I hope, precludes this from happening again. However, you must understand that when an accusation is filed, it immediately becomes public record and, according to the Public Records Act, when we receive a request for a copy of an accusation, by law we are unable to refuse.

**We've heard that the person who is most apt to get in trouble is the older doctor?**

We don't know why this occurs, but we do see in overprescribing cases that the older physician frequently gets into trouble. Is this because he has become an easy mark? Is it because he may have slipped from the main stream? I don't know the answer to this question. He very often is "well-intentioned" but, nevertheless, he is in violation of the law. The younger physician who is in violation of the law for overprescribing will often be a script doctor writing for profit, or he is a self-user.

**Oliver Wendell Holmes once made the statement to the effect that if all the medicine in the United States was dumped into the sea, only the fish would be worse off. Is this somewhat your position?**

Yes, I would have to say that I agree with Oliver Wendell Holmes. I think this question brings up a very real societal problem. We have become a culture of drug users. We are all exposed to an enormous barrage from the media, especially television and magazines and drug detail persons. Somehow, some of us believe there is a drug to solve every problem we face. The public is bombarded with commercials on drugs to cure your sinuses, headaches, indigestion, backache, constipation, hemorrhoids, to name a few, and the physician is led to believe that this or that drug is the answer to sleeplessness, drowsiness, apathy, nervousness, obesity, depression, etc., etc.

It is not the fault of the drug companies that some physicians use detail persons as their principal source of instruction on the use of drugs. Salesmen they are; medical school instructors they are not. The physician who can't recognize the difference is a sure bet to be an over-prescriber. No one is forcing the physician to listen to sales pitches.

*(Continued on Page 7)*

# DISCIPLINARY ACTIONS

## January 1, 1982-June 30, 1982

Effective January 1, 1981, all statutes in the Medical Practice Act (Business and Professions Code, commencing at Section 2000) were re-arranged and re-numbered to provide a more orderly and logical sequence. Most of the cases below were started before the changeover, and therefore the B&P statutes cited are based on the old numbering system, pre-1981—unless otherwise stated to be "new B&P Code."

**Abudu, Assibi Z., M.D. (G-32689)—Pasadena**  
2234(b),(d),(e), 2236, 2238, 2239 New B&P Code  
Stipulated Decision. Conviction for obtaining controlled drugs by fraud. Fictitious prescriptions. Self use of controlled drugs. Gross negligence and incompetence in care of sickle-cell anemia patient.  
Revoked, stayed, 5 years probation on terms and conditions, including 180 days actual suspension.  
April 22, 1982

**Babior, Louis S., M.D. (A-27340)—Sun Valley**  
725, 2242, 2238 New B&P Code; 11154 H&S Code  
Stipulated Decision. Clearly excessive prescribing of drugs without good faith prior examination and medical indication, and to persons not under his care for a pathology or condition.  
Revoked, stayed, 5 years probation on terms and conditions including 180 days actual suspension.  
May 6, 1982

**Bacchus, Azeez, M.D. (G-4480)—Lancaster**  
725, 2234, 2238, 2242 New B&P Code; 11156 H&S Code  
Clearly excessive prescribing of drugs without adequate examination and medical indication, constituting gross negligence, repeated similar negligent acts and incompetence. Controlled drugs to an addict or habitual user.  
Revoked, stayed, 5 years probation on terms and conditions.  
February 24, 1982

**Baird, Clara Mae, M.D. (AO-7686)—Chico**  
725, 2234(b)(d), 2238, 2242 New B&P Code; 11154, 11156 H&S Code  
Stipulated Decision. Clearly excessive prescribing of controlled drugs without a good faith prior examination and medical indication, and to persons not under her care for a pathology or condition, and to addicts or habitual users. Gross negligence and incompetence.  
Revoked, stayed, 5 years probation on terms and conditions, including 90 days actual suspension.  
June 10, 1982

**Beeton, Santiago H., M.D. (A-17362)—Los Angeles**  
490, 650, 2236, 2234(e) New B&P Code  
Stipulated Decision. Federal conviction for taking illegal kickbacks from a clinical lab for patient referrals, resulting in a criminal sentence including a \$10,000 fine.  
Revoked, stayed, 5 years probation on terms and conditions, including 25 days actual suspension.  
February 24, 1982

**Benton, Bramley, M.D. (A-16502)—Sacramento**  
730, 2234 New B&P Code  
Stipulated Decision. Sexual relations with female patient.  
Revoked, stayed, 10 years probation on terms and conditions, including actual suspension of 135 days.  
June 25, 1982

**Blodgett, John R., M.D. (G-6431)—Huntington Beach**  
Probation violated when urine test disclosed cocaine use. Several prior disciplines.  
Revoked  
March 11, 1982

**Breslaw, Leonard, M.D. (C-17229)—Los Angeles**  
490, 2383, 2361(e) Old B&P Code  
Conviction for grand theft.  
180 days suspension, stayed, 5 years probation on terms and conditions.  
(This 1976 Decision upheld after lengthy court appeals recently concluded)  
February 1, 1982

**Castator, Floyd W., M.D. (C-24493)—Beaumont**  
2234(b)(d), 2242 New B&P Code  
Prescribed dangerous drugs without a good faith prior examination and medical indication. Gross negligence and incompetence. Prior discipline.  
Revoked  
May 3, 1982

**Chan, John Tak-Tai, M.D. (A-24557)—Sacramento**  
2234(b)(d) New B&P Code  
Gross negligence and incompetence in anesthesiology management for a cesarean section and tubal ligation. No appearance at hearing by respondent.  
Revoked  
April 22, 1982

**Craven, William T., M.D. (G-27521)—Santa Rosa**  
2238 New B&P Code; 11350, 11170 H&S Code  
Unlawful possession of cocaine in violation of statutes regulating drugs.  
30 days suspension, stayed, 1 year probation on terms and conditions.  
March 11, 1982

**Culala, Pascual, M.D. (A-30663)—San Jose**  
2305 New B&P Code  
Stipulated Decision. Illinois license disciplined by that state for indiscriminate prescribing.  
Revoked, stayed, 7 years probation on terms and conditions, including 180 days actual suspension.  
January 18, 1982

**Cummings, Arthur L., M.D. (AO-9454)—Rackerby**  
700, 725, 2234(b)(c), 2238, 2241, 2242 New B&P Code  
Stipulated Decision. Clearly excessive prescribing of dangerous drugs without good faith prior examination and medical indication, and to addicts and habitues; gross negligence, incompetence, and violation of statutes regulating drugs.  
Revoked, stayed, 5 years probation on terms and conditions, including actual suspension of 120 days.  
January 18, 1982

**Davis, Alvin W., M.D. (A-16309)—Covina**  
2234(a), 2296 New B&P Code  
Failed to comply with a Board order directing him to undergo a psychiatric examination. No appearance by respondent.  
Revoked  
April 5, 1982

**Degnan, Robert D., M.D. (A-18799)—Rock Springs, WY**  
2234(b),(d) New B&P Code  
Stipulated Decision. Gross negligence and incompetence in treatment and care of obstetrical patients.  
Revoked, stayed, 5 years probation on terms and conditions.  
May 6, 1982

**Dong, Collin H., M.D. (AO-5602)—San Francisco**  
2361(b)(d) Old B&P Code  
Stipulated Decision. Gross negligence and incompetence in failing to obtain blood counts before and during the use of Tandearil. (All other charges are dismissed by this settlement.)  
Revoked, stayed, 5 years probation on terms and conditions.  
January 18, 1982

**Dunn, Abraham G., Jr., M.D. (A-19590)—Fresno**  
700, 725 Old B&P Code  
Stipulated Decision. Repeated acts of clearly excessive prescribing of amphetamines.  
Revoked, stayed, 5 years probation on terms and conditions.  
January 25, 1982

**Ettinghausen, Nial B., Drugless Practitioner—Hawthorne**  
2361(a)(b)(c), 2392 Old B&P Code  
Gross negligence and incompetence in obstetrical practice and home deliveries. Also, aiding and abetting chiropractors in the unlawful practice of medicine. Prior discipline.  
Revoked.  
Decision was upheld in court appeals recently completed.  
February 16, 1982

**Fahey, Michael A., M.D. (G-13349)—San Luis Obispo**  
2234(e) New B&P Code  
With gun in hand, aided others in forcible rape of a female at respondent's home. Criminally convicted and sent to prison; appeal pending.  
Revoked.  
June 10, 1982

**Fialk, Charles, M.D. (G-8303)—Los Angeles**  
490, 2236, 2261, 2234(e) New B&P Code  
Stipulated Decision. Conviction for grand theft involving Medi-Cal fraud.  
Revoked, stayed, 5 years probation on terms and conditions, including 270 days actual suspension.  
May 3, 1982

**Fife, William S., M.D. (AO-8254)—Sacramento**  
2234(b)(c)(d) New B&P Code  
Gross negligence and incompetence in treating allergy patients with urine, orally and by injection.  
Revoked.  
May 3, 1982

**Flores, Jorge, M.D. (A-33705)—Los Angeles**  
2234(b) New B&P Code  
Stipulated Decision. Gross negligence by emergency room physician for transferring critically bleeding patient to county facility because of inability to pay.  
Revoked, stayed, 5 years probation on terms and conditions.  
May 3, 1982

**Fyson, Edward H., M.D. (A-27783)—Sherman Oaks**  
725, 2399.5 Old B&P Code  
Clearly excessive prescribing of controlled drugs without a good faith prior examination and medical indication.  
Revoked, stayed, 5 years probation on terms and conditions.  
March 10, 1982

**Gamm, Stanford R., M.D. (A-10798)—San Francisco**  
2361(b)(c), 2391.5, 2399.5, 700, Old B&P Code; 11154 H&S Code  
Clearly excessive prescribing of controlled drugs without a good faith prior examination and medical indication, and to persons not under his care for a pathology or condition, constituting gross negligence and repeated similar negligent acts.  
Revoked, stayed, 5 years probation on terms and conditions.  
Judicial review recently completed ordered the Board to set aside its reconsidered penalty calling for outright revocation, and reinstate the first decision.  
May 18, 1979

**Ganakis, Emanuel J., M.D. (A-22727)—Santa Barbara**  
725, 730, 2234(b)(d)(e), New B&P Code  
Stipulated Decision. Gross negligence and incompetence in the care of a psychiatric patient, including excessive and inappropriate drugs and sex relations.  
Revoked, stayed, 7 years probation on terms and conditions, including one year actual suspension.  
April 22, 1982

Garcia, Bienvenido C., M.D. (A-23219)—Stockton 2234(e), 2236 New B&P Code  
Stipulated Decision. Conviction for grand theft involving Medi-Cal fraud.  
Revoked, stayed, 5 years probation on terms and conditions.  
January 4, 1982

Glatch, Louis F., Jr., M.D. (C-28662)—Huntington Beach 2361(e), 2399.5 Old B&P Code  
Stipulated Decision. Filed false Medi-Cal claims. Also, prescribed dangerous drugs without a good faith prior examination and medical indication.  
Revoked, stayed, 5 years probation on terms and conditions, including 6 months actual suspension.  
May 3, 1982

Goldstone, David F., M.D. (C-35688)—Mt. Laguna 2297 New B&P Code  
Mentally ill to the extent it affects his ability to practice medicine safely.  
Revoked.  
June 2, 1982

Gurland, David B., M.D. (G-20027)—Tucson, AZ 2305 New B&P Code  
Stipulated Decision. Arizona license disciplined by that state for prescribing controlled drugs without sufficient medical reason or therapeutic purpose.  
Revoked, stayed, 5 years probation on terms and conditions, including 90 days actual suspension.  
February 24, 1982

Haas, Hugh S., M.D. (A-13049)—Fresno 2361(a), 2391.5 Old B&P Code; 11158, 11171, 11190 H&S Code  
Violated statutes regulating drugs related to prescription requirements and records keeping for Schedule II controlled substances.  
90 days suspension, stayed, 3 years probation on terms and conditions.  
January 18, 1982

Heinemann, Herman J., M.D. (C-37067)—Hollister 730, 2234 New B&P Code  
Stipulated Decision. Offensive sexual remarks to female patients and lewd touching.  
Revoked, stayed, 5 years probation on terms and conditions.  
April 30, 1982

Herold, William L., M.D. (G-25158)—Carmichael 2361 Old B&P Code  
Sexual transgressions with female patient.  
30 days suspension, 3 years probation on terms and conditions, including 20 days actual suspension.  
Under recent court order, the Board cancelled other charges and penalties in an earlier decision.  
April 25, 1982

Hoffman, Olive D., M.D. (C-16019)—Monrovia 2361(b) Old B&P Code  
Gross negligence in management of patient with severe congestive heart problem.  
Revoked, stayed, 5 years probation on terms and conditions.  
January 28, 1982

Hrabko, Randall P., M.D. (G-39326)—Inglewood 2305 New B&P Code  
Florida license disciplined by that state for indiscriminate prescribing and for making a false statement to a pharmacist.  
One year suspension, stayed, 2 years probation on terms and conditions.  
May 6, 1982

Hyde, Robert L., M.D. (G-8979)—Florence, AZ 2305 New B&P Code  
Stipulated Decision. Arizona license disciplined by Arizona for violation of the "amphetamine regulations," a state law prohibiting the use of amphetamines for obesity treatment, except for short term adjunctive therapy.  
Revoked, stayed, 5 years probation on terms and conditions, including 90 days actual suspension.  
January 25, 1982

Ihrig, Roger W., M.D. (C-38990)—Hugoton, KS 480, 2236, 2239 New B&P Code  
Self use of controlled drugs; convictions of offenses involving unlawful possession or use of controlled drugs. No appearance at hearing by respondent.  
Revoked.  
May 3, 1982

Jackson, Oscar J., M.D. (C-20986)—San Francisco 725, 2242, 2234(b), New B&P Code; 11154 H&S Code  
Clearly excessive prescribing of controlled drugs without good faith prior examination and medical indication and to persons not under treatment for pathology or condition; gross negligence.  
Revoked, stayed, 5 years probation on terms and conditions.  
January 25, 1982

Jackson, Sidney C., M.D. (G-2323)—Union City 2234(b)(c)(d) New B&P Code  
In weight control practice, gross negligence, incompetence and repeated similar negligent acts.  
Revoked, stayed, 5 years probation on terms and conditions, including 90 days actual suspension.  
January 18, 1982

Jamieson, David J., M.D. (A-14112)—Modesto 2234(b)(c)(d) New B&P Code  
Bilateral breast augmentation surgeries; gross negligence, incompetence, and repeated similar negligent acts.  
Revoked, stayed, 10 years probation.  
April 22, 1982

Jenkins, Martha E., M.D. (AO-6642)—Glendora Voluntary surrender of license.  
Accusation dismissed.  
May 11, 1982

Jenny, Henry, M.D. (A-22531)—Palm Springs Voluntary surrender of license.  
Accusation dismissed.  
March 23, 1982

Jordan, Ernest W., M.D. (A-12119)—Colton 2234(d) New B&P Code  
Stipulated Decision. Incompetence in failing to hospitalize a patient with a ruptured spleen.  
Revoked, stayed, 5 years probation on terms and conditions.  
January 18, 1982

Kappeler, Thomas R., M.D. (C-34424)—Topanga 2238 New B&P Code; 11170, 11377 H&S Code  
Stipulated Decision. Self administration of controlled drugs in violation of statutes regulating drugs, and in violation of prior probation.  
Revoked, stayed, 5 years probation on terms and conditions, including 6 months actual suspension.  
June 17, 1982

Kemp, Ralph A., M.D. (A-21482)—Freedom 2361 Old B&P Code  
Stipulated Decision. Engaged in unprofessional conduct with a female patient.  
Revoked, stayed, 7 years probation on terms and conditions, including prohibited practice for various periods specified.  
January 25, 1982

Kenneally, Leo F., M.D. (A-28653)—Hidden Hills 2236 New B&P Code  
Stipulated Decision. Conviction for theft of government property from Medi-Cal program.  
Revoked, stayed, 3 years probation on terms and conditions.  
June 17, 1982

Kones, Richard J., M.D. (G-12806)—Houston, TX Voluntary surrender of license.  
Accusation dismissed.  
February 9, 1982

Lesser, Leonard I., M.D. (C-8263)—Newport Beach Voluntary surrender of license.  
Accusation dismissed.  
May 11, 1982

Lindsay, Owen W., M.D. (A-27028)—Tehachapi 490, 2237 New B&P Code  
Stipulated Decision. Conviction for aiding and abetting unlicensed employees in unlawful practice of medicine.  
Revoked.  
February 9, 1982

Lund, Carl E., M.D. (AO-7047)—Canoga Park Stipulated Decision. Must pass oral clinical examination in general medicine before license can be restored to active status. Accusation dismissed without prejudice.  
April 7, 1982

McCree, Robert L., M.D. (C-27029)—Costa Mesa 725, 2399.5, 2391.5 Old B&P Code; 11154 H&S Code  
Stipulated Decision. Clearly excessive prescribing of controlled drugs without a good faith prior examination and medical indication, and to a person not under his treatment for a pathology or condition.  
Revoked, stayed upon conditions, then 5 years probation on terms and conditions.  
February 16, 1982

Melone, Horatio R., M.D. (C-10093)—Sebastopol 725, 2399.5, 2284 Old B&P Code  
Conviction for furnishing controlled drugs to a person not under his treatment for a pathology or condition. Clearly excessive prescribing without a good faith prior examination and medical indication.  
Revoked, stayed, 5 years probation on terms and conditions.  
May 17, 1982

Michaels, Robert A., M.D. (G-8384)—Beverly Hills Violated condition of probation requiring abstinence from alcohol.  
Revoked, stayed, 2 years added to prior probation for a total of 12, on terms and conditions.  
May 19, 1982

Miller, Milo K., M.D. (C-38017)—Las Vegas, NV 2296, 2234 New B&P Code  
Refused to comply with a Board order to undergo a psychiatric examination.  
Revoked.  
January 18, 1982

Mitts, Roger M., M.D. (A-10442)—Campbell Voluntary surrender of license.  
Accusation dismissed.  
February 11, 1982

Mosler, Frank, M.D. (A-19694)—Granada Hills 2361.5 Old B&P Code  
Stipulated Decision. Clearly excessive prescribing of drugs detrimental to the patient.  
Revoked, stayed, 5 years probation on terms and conditions.  
April 12, 1982

Nickerson, Gerald L., M.D. (C-23705)—Los Angeles 725, 2242, 2411, 2234(b), (c), (d), (f), 2236 New B&P Code  
Stipulated Decision. Conviction for grand theft related to Medi-Cal fraud. Clearly excessive prescribing of dangerous drugs without a good faith prior exam and medical indication. Gross negligence and incompetence. Dishonesty. Fabricated medical records.  
Revoked, stayed, 7 years probation on terms and conditions, including 270 days actual suspension.  
February 28, 1982

Noordhoff, Norman K., M.D. (A-13811)—Marysville 725, 2234(b), 2242, 2238 New B&P Code; 11154 H&S Code  
Stipulated Decision. Clearly excessive prescribing of controlled drugs without good faith prior exam and medical indication, and to a person not under his care for a pathology or condition; gross negligence.  
Revoked, stayed, 5 years probation on terms and conditions, including 90 days actual suspension.  
February 26, 1982

Olgin, Howard A., M.D. (G-20380)—Encino 2361(b), 490, 2384, 2391.5 Old B&P Code  
Stipulated Decision. Gross negligence in management of gunshot wound, resulting in death. Self-use of Demerol; false prescription; conviction for unauthorized possession of a controlled drug.  
Revoked, stayed, 10 years probation on terms and conditions.  
October 29, 1981

O'Neill, Joseph E., M.D. (A-17774)—Montague 490, 2234(e), 2236 New B&P Code  
Stipulated Decision. County physician convicted for false time records, fraudulent claims, and failure to inventory dangerous drugs.  
Revoked, stayed, 5 years probation on terms and conditions, including 90 days actual suspension.  
January 26, 1982

Oral, Orhan, M.D. (A-30027)—Los Gatos Voluntary surrender of license.  
Accusation dismissed.  
February 11, 1982

Ortiz, Cesar S., M.D. (A-16702)—San Francisco  
2242, 2238 New B&P Code; 11154 H&S Code  
Prescribed a controlled drug without good faith prior exam and medical indication, and to a person not under his treatment for pathology or condition.  
30 days suspension, stayed, one year probation on terms and conditions.  
April 12, 1982

Palmer, Albion D., M.D. (C-36823)—Los Angeles  
2399.5, 2391.5 Old B&P Code; 11154 H&S Code  
Stipulated Decision. Prescribed controlled drugs without good faith prior exam and medical indication, and to persons not under his care for a pathology or condition.  
Revoked, stayed, 5 years probation on terms and conditions.  
April 12, 1982

Racz, Desider, M.D. (A-14225)—Santa Rosa  
Voluntary surrender of license.  
Accusation dismissed.  
April 27, 1982

Randolph, Harry L., M.D. (C-6364)—Ontario  
Voluntary surrender of license in lieu of completing probation.  
February 11, 1982

Reid, Robert B., M.D. (A-6047)—Perris  
725, 2399.5, 2361.5 Old B&P Code  
Stipulated Decision. Excessive prescribing of dangerous drugs without good faith prior exam and medical indication. Prior discipline.  
Revoked, stayed on conditions, then 5 years probation on terms and conditions, including 30 days actual suspension.  
May 21, 1982

Rice, Frances M., M.D. (A-18158)—Bakersfield  
2236, 2234 New B&P Code  
Stipulated Decision. Conviction of misdemeanors constituting violation of probation of prior discipline.  
Revoked, stayed, prior probation extended 4 years, terms and conditions.  
April 12, 1982

Roberts, Mark W., M.D. (C-23348)—La Jolla  
2234(a), 2296 New B&P Code  
Failure to comply with a Board order compelling a psychiatric examination.  
Revoked  
January 25, 1982

Robertson, M. Michael, M.D. (G-34725)—Los Angeles  
2399.5, 2391.5 Old B&P Code, 11154 H&S Code  
Stipulated Decision. Prescribed controlled drugs without good faith prior exam and medical indication, and to persons not under his care for a pathology or condition.  
Revoked, stayed, 5 years probation on terms and conditions, including one year actual suspension.  
May 28, 1980

Rodin, Melvin, M.D. (G-878)—Monterey  
2242, 2238, 2237(a) New B&P Code  
Conviction for furnishing controlled drugs to persons not under his treatment for a pathology or condition.  
Prescribed controlled drugs without good faith prior exam and medical indication.  
Revoked, stayed, 7 years probation on terms and conditions.  
April 16, 1982

Roget, Gordon B., M.D. (A-15228)—Lodi  
2234(b)(c)(d) New B&P Code  
Stipulated Decision. Gross negligence, incompetence and repeated negligence in care and management of obstetrical patients.  
Revoked, stayed, 5 years probation on terms and conditions.  
January 29, 1982

Sanderson, Herbert C., M.D. (AO-9490)—Sacramento  
By Stipulation. Violation of a condition of probation.  
6 months actual suspension, with continuing probation of prior discipline, on terms and conditions.  
April 13, 1982

Schrecongost, Raymond A., M.D. (A-26728)—Lodi  
2242, 2238 New B&P Code; 11154, 11156, 11190 H&S Code  
Stipulated Decision. Violated statutes regulating controlled drugs. Prescribed controlled drugs without good faith prior exam and medical indication, and to an addict.  
Revoked, stayed, 5 years probation on terms and conditions.  
May 21, 1982

Szawlowski, Matthew W., M.D. (G-5020)—Fountain Valley  
2242, 2238 New B&P Code; 11154 H&S Code  
Prescribed controlled drugs without medical indication and to persons not under his treatment for a pathology or condition.  
Revoked, stayed, 5 years probation on terms and conditions.  
March 1, 1982

Taylor, William E., II, M.D. (G-32391)—Ann Arbor, Michigan  
2239, 2238 New B&P Code; 11154, 11157, 11170, 11173, 11174 H&S Code  
Violated statutes regulating controlled drugs, including false prescriptions to obtain controlled drugs for self-use.  
Revoked, stayed, 5 years probation on terms and conditions.  
May 10, 1982

Vidricksen, Karl L., M.D. (G-35324)—Tulalake  
2238 New B&P Code; 11170, 11190 H&S Code  
Self administration of controlled drugs, and failure to maintain records relating to disposition of inventory of controlled drugs.  
Revoked, stayed, 5 years probation on terms and conditions.  
February 26, 1982

Vizcarra, Catalino C., M.D. (A-24540)—Loma Linda  
2234(b), (d), 2238 New B&P Code; 11190 H&S Code  
Gross negligence and incompetence in management of patient with rectal injury. Also, failed to make and maintain records relating to transactions involving Schedule II controlled drugs.  
Revoked, stayed, 5 years probation on terms and conditions.  
January 18, 1982

Wakefield, John C., M.D. (A-21840)—San Jose  
2234(b) New B&P Code  
Gross negligence in management of patient with psychological problems.  
30 days suspension, stayed, one year probation on terms and conditions.  
September 28, 1982

Wall, George R., M.D. (A-27286)—San Pedro  
2234(b) (c) (d) New B&P Code  
Stipulated Decision. Gross negligence, incompetence and repeated acts of negligence in numerous surgery cases.  
Revoked, stayed, 5 years probation.  
April 12, 1982

Watson, John L., M.D. (A-29115)—Pasadena  
725, 2242, 2234(b) (c) New B&P Code  
Stipulated Decision. Clearly excessive prescribing of dangerous drugs without a good faith prior exam and medical indication, and to an addict; gross negligence and repeated negligence; violation of probation under prior discipline.  
Revoked, stayed, 10 years probation on terms and conditions, including 90 days actual suspension.  
May 17, 1982

Weiss, Isidore I., M.D. (C-6097)—Stockton  
Voluntary surrender of license.  
Accusation dismissed  
June 3, 1982

Weston, Daniel T., M.D. (C-6623)—Santa Monica  
725, 2242 New B&P Code  
Stipulated Decision. Clearly excessive prescribing of dangerous drugs without a good faith prior examination.  
Revoked, stayed, 5 years probation on terms and conditions.  
May 17, 1982

Winston, Michael S., M.D. (G-20812)—Encino  
2234(b)(d) New B&P Code  
Stipulated Decision. Gross negligence and incompetence of anesthesiologist in rhinoplasty operation, resulting in death.  
Revoked, stayed, 3 years probation on terms and conditions.  
May 17, 1982

Yi, Myong Sik, M.D. (C-37975)—Oxnard  
Voluntary surrender of license.  
Accusation dismissed.  
January 27, 1982

## Don't Interrupt or Delay Your Practice.

Are you moving, relocating your practice or going abroad for work or study? If so, this information may save you considerable delay in obtaining privileges or licensure.

A letter of good standing is a sealed document, provided by the BMQA, which contains basic information on the date and circumstances of your original licensure and attests to the current good standing of your certificate. This document is often required by out-of-state hospitals, universities, and other

prospective employers when you are relocating or changing your practice. When you apply for licensure in another state on the basis of reciprocity you will be required to complete a formal document provided by the appropriate state medical board and submit it to BMQA for certification. This document is referred to as an endorsement.

The Board of Medical Quality Assurance charges a fee of \$2.00 for processing a letter of good standing and \$5.00 for completion of an Endorsement. For Endorsements, a photograph (approximately 2" x 3" black and white), taken within the last 60 days is also required.

Requests for these documents must be in writing and completed documents are not transmitted until the required fee and photo have been received. Considerable delay can be avoided by

enclosing the fee and photograph with your initial request.

It takes approximately one week from the date we receive the fee for the sealed letter or endorsement to be processed and mailed. If an inquiry or "second request" is received, processing is further delayed as the file is pulled for review. All requests are processed in order, upon receipt of the fee, and a "second request" does not expedite the process.

A second request should only be used after the passage of an appropriate period of time, when there is reason to suspect the original request was not received by this Board.

Your cooperation is greatly appreciated and it is hoped that a better understanding of our procedures will reduce the amount of time required to process your request.

# 1980/81 ANNUAL REPORT

The 1980/81 Annual Report of the Board of Medical Quality Assurance is now ready for distribution. Because of budget restraints we have found it necessary to recover printing and postage costs. If you would like a copy, please send a check for \$3.50 with your request to:

THE BOARD OF MEDICAL  
QUALITY ASSURANCE  
Attention: Marc Grimm  
1430 Howe Avenue  
Sacramento, CA 95825

## DRUG PRESCRIBING

(Continued from Page 3)

I have reviewed too many cases where patients need awakening by amphetamines because of the tranquilizer effect of drugs they have been given because of their emotional or nervous problems. Too often we do not try to find the real etiology of the problem: Is it a work problem, wife or family problem, alcohol, or mental illness problem? Should we try to find the underlying cause for the patient's headache rather than writing Percodan or Empirin #4 over-and-over-and over again? Perhaps some physicians are committed to seeing too many patients a day, so in order to get to the next patient, Seconal is prescribed for the patient who tells you she can't sleep, rather than trying to illicit the cause of her sleeplessness. Perhaps this job has made of me too much of a pragmatist. I suppose I am too overexposed to overprescribing. I see the answer to overprescribing in improved education rather than more control being imposed by more legislation.

**If a doctor gets into trouble with BMQA, is it necessary for him to get a lawyer?**

If BMQA comes in and asks a question, and a doctor knows that a little discussion will clear it up, a call to the local medical society or to one of our physician consultants in one of our regional offices may be all that is needed. However, if it appears to be a serious allegation, then he should have adequate representation. That's his constitutional right.

**Could you give a specific example of the type allegation where you wouldn't have to get an attorney?**

If the physician feels that he perhaps may only be involved in a minor technical violation, I do not believe the need for legal counsel is warranted. However, when the physician has knowingly been overprescribing and is contacted by the Board for an accounting, that physician better have good legal counsel.

**Doesn't every physician think he is innocent of any wrong doing, particularly when it comes to prescribing?**

I don't think so. Most physicians are smart enough to know whether or not they are doing something illegal. There are perhaps exceptions. There are physicians who, down to the wire, feel that what they did was right.

**What you are saying is that if you throw yourself at the mercy of BMQA you are going to get a different shake then if you have a lawyer?**

No, I don't think that's what I am saying. Both the Medical Board's Guidebook to Laws Governing the Practice of Medicine by Physicians and Surgeons, and a CMA publication, clearly outline the guidelines for physicians regarding when they will or will not require retaining legal counsel. The State publication just mentioned may be purchased for \$2.40 from: The State of California, Publications Section, P.O. Box 1015, North Highlands, CA 95660, (Stock No. 0057-1020-3).

**If the physician after reading this still has some questions about prescribing, should he call your office?**

Either call my office (916-924-2301) or they shouldn't hesitate to contact the medical consultant in their region. There are four regions:

**SAN MATEO**  
Anthony Gualtieri, M.D. (415-573-3888)

**SACRAMENTO**  
Halbert Schwamb, M.D. (916-920-6013)

**SANTA ANA**  
James Klobucar, M.D. (714-558-4452)

**LOS ANGELES**  
Lillian Rachlin, M.D. (213-641-8110)

Adrian Mayer, M.D. (213-641-8110)

**Is there any final thought you would like to leave?**

Yes. Make sure it is pointed out that we know that the vast majority of the profession practices good medicine. A small percentage makes up for a great number of dosage units and a great deal

of abuse and all of the publicity. The more we can do to weed out these physicians, the better off we will all be.

One additional point. BMQA is not perfect. However, it is not the totally unreasonable, anti-doctor ogre it is often made out to be by physicians who have accusations filed against them. Many of the stories about BMQA's harshness are not supported by the facts. Before you condemn an action taken by BMQA, request from us a copy of the accusation against a particular doctor. You can never make a fair judgment by hearing only one side of the story no matter how convincing it may sound or how well you think you know the doctor. Read the accusation for yourself. This is all I ask.

PDR Code	Federal Schedules	Examples	Abuse Potential
		Opium Morphine Meperidine, Demerol, Isonipecaine Codeine Hydromorphone, Dilaudid Methadone, Dolophine Cocaine Phenmetrazine, Preludin	
II		Methylphenidate, Ritalin Amphetamine, Biphetamine, Dexedrine Methamphetamine, Desoxyn, Eskatrol Methaqualone, Quaalude, Parest, Mequin Amobarbital, Amytal Secobarbital, Seconal Oxycodone, Percodan Pentobarbital Oxymorphone, Numorphan	High
III		Glutethimide Methyprylon *Paregoric APC and Codeine Butabarbital Phendimetrazine	<II
IV		Phenobarbital Chloral Hydrate Diazepam Chlordiazepoxide Flurazepam Dextropropoxyphene Propoxyphene Diethylpropion Phentermine	<III
V		The drugs in this schedule have an abuse potential less than those listed in Schedule IV and consist primarily of preparations containing limited quantities of certain narcotic drugs generally for antitussive and antidiarrheal purposes. Lomotil, Elixir Terpin Hydrate and Codeine.	<IV

\* Must be written on official Triplicate Prescription

## **Patients will have access to their medical records**

Effective January 1, 1983, patients will have the right to inspect and obtain copies of their health care records. (AB 610, Howard Berman—adding Chapter 6.7, commencing with Section 25250, to the Health and Safety Code)

Within five working days after receiving a patient's written request for medical records, a health care provider, including health facilities, clinics, home health agencies, physicians and surgeons, podiatrists, dentists, optometrists, and chiropractors, must permit patients or their representative to inspect their records relating to health history, diagnosis, and condition. Patients are also entitled to copies of their records. Within 15 days after receiving a written request, a provider must supply a patient, or representative, with copies of any records they have a right to inspect. The health care provider is entitled to charge a fee to defray costs (up to \$.25 per page or \$.50 per page for records copied from microfilm and any additional clerical costs incurred in making records available).

If the provider chooses, he or she may instead prepare a summary for inspection and copying. The summary

must contain specified information and be available to the patient within ten working days from the date of the request (up to 30 days if the record is of extraordinary length or if the patient has been discharged from a health facility within the last ten days). Again, the provider may charge a reasonable fee based on actual time and cost for preparation.

Copies of X-rays and tracings derived from electrocardiography, electroencephalography or, electromyography do not need to be provided to the patient or representative if the originals are transmitted to another health care provider within 15 days after receipt of a written request.

There are special provisions defining the right of minor patients' parents or representatives to obtain records that include safeguards to protect physician relationships with minor patients. Also, if a provider determines that there is a substantial risk of significant adverse or detrimental consequence to a patient having access to mental health records, the request may be denied, subject to specified conditions.

Wilful violation constitutes unprofessional conduct and the respective licensing agency shall consider the violation as grounds for disciplinary action, including license suspension or revocation.

A copy of this legislation may be obtained, free of charge, from the Legislative Bill Room, 1020 O Street, Room A-107, Sacramento, CA 95814. Ask for Chapter 15, 1982 Statutes.

## **NEW APPOINTMENTS TO BMQA**

**Charles Aronberg, M.D., Beverly Hills**  
*Division of Allied Health Professions*

**Joyce W. Kelly, C.R.N.A., Los Angeles**  
*Division of Allied Health Professions*

**Lindy F. Kumagai, M.D., Sacramento**  
*Division of Licensing (reappointment)*

**Henry Raymond Mallel, Los Angeles**  
*Division of Licensing*

**Maire McAuliffe, M.D., San Francisco**  
*Division of Licensing*

**Miller Medearis, Los Angeles**  
*Division of Medical Quality (reappointment)*

**Warren Mills, M.D., Sunnyvale**  
*Division of Allied Health Professions*

**Barry Warshaw, M.D., Lynwood**  
*Division of Medical Quality (reappointment)*

DEPARTMENT OF CONSUMER AFFAIRS  
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