



LEGISLATIVE CHANGES WILL IMPROVE EFFECTIVENESS OF MEDICAL BOARD

Other Law Changes Affecting Physicians

Along with Senate Bill 1888 and Assembly Bill 2392, the Legislature passed several additional bills affecting BMQA and the professions it licenses. They are summarized below. Contact the Board if you wish additional information about a bill.

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

PLEASE READ THE FOLLOWING INFORMATION SO YOU WILL KNOW FROM WHOM OR WHAT GROUP OF PROVIDERS HEALTH CARE MAY BE OBTAINED.

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

Hospitals Gain Protections When Reporting Disciplinary Actions

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

Under existing law, licensed health facilities, including hospitals, are required to report to the Board whenever a physician, podiatrist or psychologist is denied staff privileges, revoked or suspended for more than 45 cumulative days during a calendar year. The Stiern bill extends the reporting requirement to professional associations which restrict membership, and provides that persons who

make such reports will not incur civil or criminal liability.

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

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New Licensing Procedures Will Help Control Fraudulent Applications

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

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

Among other provisions, the Filante bill will:

- Make it illegal to violate the security of a licensing examination;
- Clarify that physicians who are exempt from licensure because they practice in a federal facility may not practice in the community unless they are licensed in California;
- Allow the Board to defend an expert witness who is sued for participating in a BMQA disciplinary action. In addition to defamation, suits for conspiracy, invasion of privacy and other theories will be defended;
- Provide for payment of expert consultants who sit on nondisciplinary physician peer counseling panels.

CONSULTANT'S CORNER

This space reviews interesting and significant cases which have crossed a BMQA Medical Consultant's desk. Names are not used, nor do we identify the physician under discussion.

Please direct all comments to: Antony C. Gualtieri, M.D., Chief Medical Consultant, BMQA, 1430 Howe Avenue, Suite 100, Sacramento, CA 95825, (916) 920-6393.

Would you examine the testes of a young adult male who presented with bilateral breast tenderness? Three physicians at a student health clinic did not. As a result, a 26-year-old college student died sixteen months later from a delayed diagnosis of metastatic embryonal carcinoma of the left testis.

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

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

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

Four months later, the patient again returned to the clinic. This time he complained of "a clear discharge from the nipples for the past two weeks." For the first time, he com-

plained of an enlarging left testicle of a month's duration. The fourth doctor to examine this patient continued to concentrate on the patient's specific complaints. The breasts were "diffusely increased, but only slightly tender. (The) nipples (are) increased in size with an increased venous pattern. The left testicle has a fixed questionable mass. Refer to urologist."

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

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

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

THE PREVENTION OF PERINATAL HEPATITIS B

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

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

In 1984, the Immunization Practices Advisory Committee of the USPHS and

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

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

The Importance of Written Orders for Oxygen and Durable Medical Equipment

By A. Peter Holm, R.C.P., M.A.
Chairman, Respiratory Care
Examining Committee

When a physician discharges a patient who needs durable medical equipment (DME), oxygen or other supports at home, a written order may speed the process and avoid potential law violations.

Current law prohibits an unlicensed person, such as a clerk or dispatcher, from accepting and implementing an oral order for devices or supplies which require a prescription. When an acute hospital phones a provider, an order is often transmitted from one unlicensed person to another. When this is done the potential for error is greatly increased. To avoid this, two procedures should be used.

First, orders should be transmitted between licensed practitioners—physician, nurse, respiratory care practitioner (RCP), etc. Many large DME providers now employ respiratory care practitioners to perform patient education, assessment and therapy. Since an RCP must work under medical direction, there is greater assurance that supplies, equipment and training are provided correctly by communicating with the trained provider.

Second, the patient or his or her caregiver should receive a written copy of the order with clear instructions, both oral and written. This assures several things. The patient has the right to select a DME provider. If the hospital or physician phones an order, the implication is that no choice is permitted. A written order assures that the DME provider provides exactly the equipment and training you want the patient to receive. Written orders and instructions reinforce the oral instructions the patient is given, which helps assure better compliance with the therapy.

Finally, in the absence of a written order, unnecessary delays may occur in delivery and initiation of the therapy. Written orders constitute clear authority to initiate care, avoid communication errors, and provide the dealer with documentation for reimbursement.

It is suggested that hospital discharge planners and physician offices review their procedures for ordering DME and related services. Be aware that few vendors have licensed personnel available to accept telephone orders. Since continuity of care after discharge often is essential to patient well-being, order services early and in writing. Safe practice requires that oral orders be substantiated in writing prior to implementation of therapy.

For additional information or copies of relevant laws, please contact:

Respiratory Care Examining Committee
Board of Medical Quality Assurance
1430 Howe Avenue
Sacramento, CA 95825
(916) 924-2314

Fictitious Name Permits for MDs and DPMs

- Q.** Suppose Uriah Heep, M.D. wants to use a fictitious name, "Copperfield Medical Clinic," for his medical practice. What should he do?
- A.** Dr. Heep should register the name with BMQA and get a fictitious name permit. Otherwise, he'll run afoul of Section 2285, Business and Professions Code, which provides that the use of a fictitious name by a physician alone, in conjunction with a partnership or group, or as a name of a professional corporation, without first obtaining a fictitious name permit from BMQA, constitutes unprofessional conduct for disciplinary purposes.
- The same rule applies to the Doctor of Podiatric Medicine (DPM), the foot surgeon.
- Q.** How much effort and red-tape is there in getting this fictitious name permit?
- A.** It's almost like falling out of bed—if everything is in order. The application is a simple one-page form. A small filing fee is involved. The permit is mailed out in a short time.
- Q.** What are the foreseeable problems that could delay the permit?
- A.** The most common problem is the proposed name. The name must not be confusingly similar to other names previously registered. The name must contain the words "medical clinic" or "medical group." This is required by statutory law, so don't blame our clerk. For example, proposed names like "Cyclops Eye Center" or "Wilshire Medical Institute" or "Radiology Associates" will not be approved because "medical clinic" or "medical group" is lacking in the name. (Section 2415, Business and Professions Code). Also, the term "Trauma" is not permitted, as in "Mercy Trauma Medical Group," unless the use is authorized by the local EMS agency (Emergency Medical Services). (Section 1798.165, Health and Safety Code).
- Q.** What about Podiatrists?
- A.** Similar rules apply. If Ankles Aweigh, D.P.M., applies for a permit, his fictitious name must contain one of these designations: "podiatry group," "podiatrists' group," "podiatry clinic," or "podiatrists' clinic." Examples: "Uptown Foot Clinic" or "Malibu Podiatry Center" will not be approved for a permit.
- Q.** What's the address to get an application form and further information?
- A.** Board of Medical Quality Assurance
Attn: Fictitious Name Section
1430 Howe Avenue
Sacramento, CA 95825
Phone: (916) 920-6074

NOTICE AVAILABILITY OF DRONABINOL

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

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

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

Dr. Gualtieri Moves to Professional Review Organization

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

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

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

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

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

"Playing doctor" for keeps . . .

WHEN A PHYSICIAN IS NOT A DOCTOR

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

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

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

- Call the Board to verify the license status of every potential physician employee. The verification number is (916) 920-6343. Ask for the date of birth and date of initial licensure as well as current status.
- In the case described, the imposter was many years younger than the retired physician he impersonated.
- Check the information on the applicant's curriculum vitae. Call the references. You may even ask for a physical description.
- Probe a little into the applicant's depth of medical knowledge. The imposter had broad general information, but was evasive about more subtle questions. He carefully avoided treating complex cases, referring them to others for care.
- Even after a doctor joins your organization, if his or her behavior seems unusual, don't hesitate to look a little further. True imposters are few, but even one is a serious hazard to patients.

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

BOARD RECRUITING FOR CHIEF MEDICAL CONSULTANT

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

(916) 920-6393

DISCIPLINARY ACTIONS

February 1, 1986 to July 30, 1986

Physicians and Surgeons

- BALLARD, William R., Jr., M.D. (A-10678)**—Hidden Hills 725, 2234(a),(b),(c),(d),(e), 2238, 2242 B&P Code
Conviction for aiding and abetting an unlicensed person to engage in the practice of medicine. Gross negligence, incompetence, and repeated negligent acts in his prescribing practices with numerous patients. Also, excessive prescribing, and prescribing without prior examination and medical indication. Also, worked at a clinic in Gardena issuing prescriptions knowing the owner was involved in the illicit enterprise of selling prescriptions for drugs with high street values.
Revoked.
July 27, 1986
- BLASQUEZ, Jaine, M.D. (A-21843)**—Visalia 2236 B&P Code
Conviction for false Medi-Cal claims.
Revoked, stayed, 5 years probation on terms and conditions.
February 24, 1986
- CLOUD, Thomas C., III, M.D. (G-41210)**—Los Angeles 2234(e), 2242, 2261, 2238, 4390 B&P Code
Selling prescriptions for controlled drugs (Preludin, Talwin, Doriden, etc.), including forged prescriptions in fictitious names, in collaboration with cooperative pharmacies.
No appearance by respondent.
Revoked.
April 21, 1986
- DUPUIS, William, M.D. (G-34943)**—North Hollywood 2234(e), 2242, 2261, 2238, 2408, 2271 B&P Code
Selling prescriptions for controlled drugs (Preludin, Doriden, Quaalude, etc.), including pre-dated prescriptions in fictitious names. Received large sums from lay investors for shares in his medical corporation which falsely advertised a 95% cure rate for herpes.
No appearance by respondent.
Revoked.
April 28, 1986
- FERRARI, Victor J., Jr., M.D. (C-33683)**—Monette, Arkansas 2305 B&P Code
Suspension of Ohio license by that state for prescription violations.
One year suspension, stayed, 2 years probation on terms and conditions.
April 21, 1986
- HICKS, James Robert, M.D. (C-21473)**—Los Angeles
Stipulated decision. Violated several conditions of probation of prior decision, including the condition requiring abstinence from alcohol.
Revoked, stayed, increased probation from 5 to 7 years, on additional terms and conditions.
July 23, 1986
- HURVITZ, Seymour Allen, M.D. (G-3690)**—Los Angeles 2361(b),(d) [now 2234(b),(d)] B&P Code
Gross negligence and incompetence in the management and surgeries of 22 patients diagnosed by him as having vertebral-basilar artery insufficiency (hindbrain ischemia) requiring "reconstruction" of a vertebral artery.
Revoked, stayed, 5 years probation on terms and conditions.
April 16, 1984
Judicial review completed this year.
- JOHNSTON, Walter A., M.D. (A-17538)**—Redlands 490, 725, 2238, 2242 B&P Code
Conviction on 37 misdemeanor counts for excessive prescribing. Prescribed narcotics excessively to patients without good faith prior examination and medical indication therefor.
Revoked, stayed, 5 years probation on terms and conditions, including 30 days actual suspension.
March 12, 1986
- KRAFT, Robert A., M.D. (C-17397)**—Ukiah 726, 2234(b),(c) B&P Code
Stipulated decision. Sexual misconduct with female patients constituting gross negligence and repeated negligent acts.
Revoked.
July 11, 1986
- LAZACHEK, Gary W., M.D. (G-36080)**—Seattle, Washington 2305 B&P Code
New York license revoked by New York Board.
Revoked.
April 21, 1986
- LEIVA, Daniel B., M.D. (A-16211)**—Cupertino 726, 2234(b) B&P Code
Stipulated decision. Gross negligence in his use of cytotoxic testing to treat a female patient with anxiety and depression; and in the engagement of sex with her soon after the professional relationship.
Prior discipline.
Revoked, stayed, 8 years probation on terms and conditions, including 90 days actual suspension.
April 4, 1986
- LING, David, M.D. (C-29051)**—Fountain Valley 2234(d) B&P Code
Stipulated decision. Incompetence in the care and treatment of a pregnant patient in her last stage of labor.
Ninety days suspension, stayed, 3 years probation on terms and conditions.
April 17, 1986
- LLOYD, Leslie G., M.D. (A-13606)**—Anaheim 2242, 2234(b), 2238 B&P Code; 11153, 11154 H&S Code
Prescribing controlled drugs to a person not under his care for any pathology or condition, and without a good faith prior examination and medical indication, constituting gross negligence.
Revoked, stayed, 5 years probation on terms and conditions.
April 30, 1986
- LOWNEY, John F., M.D. (G-425552)**—Chicago Heights, Illinois 2305 B&P Code
Discipline of his Illinois license by Illinois.
No appearance by respondent at California hearing.
Revoked.
March 12, 1986
- LUNDSTEN, Lloyd R., M.D. (A-14728)**—Colorado Springs, Colorado 2305 B&P Code
Discipline by Colorado Board for substance abuse.
Revoked, stayed, 5 years probation on terms and conditions.
February 3, 1986
- MAHAN, Glenn W., M.D. (A-28065)**—Los Angeles 490, 2234(a),(b),(c), 2236 B&P Code
Stipulated decision. Gross negligence in treating a severe respiratory infection of a two-year-old girl, a victim of child abuse, on an out-patient basis instead of ordering hospitalization, resulting in her death and in his conviction for involuntary manslaughter and failure to report child abuse.
Revoked, stayed, 5 years probation on terms and conditions, including 90 days actual suspension.
February 3, 1986
- MANN, Herbert, M.D. (C-11487)**—San Jose 726, 2234(b),(c) B&P Code
Sexual misconduct with numerous female patients who sought his hypnosis treatment for health problems. His conduct also constitutes gross negligence and repeated negligent acts.
Revoked.
April 1, 1986
- MERRILL, Reynold C., M.D. (C-35396)**—Salt Lake City, Utah 2305 B&P Code
His license in Utah has been disciplined for gross negligence and excessive prescribing of Schedule II drugs.
No appearance in California case.
Revoked.
April 24, 1986
- MICHALS, Robert A., M.D. (G-8384)**—Los Angeles
Violated probation of prior discipline by failing to abstain from use of alcohol.
Prior probation extended for 2 more years on additional terms and conditions, including actual suspension of 30 days.
April 24, 1986
- MINELLI, Juan F., M.D. (A-22358)**—Los Angeles 2234(b) B&P Code
Stipulated decision. Gross negligence of anesthesiologist in leaving the operating room with the patient unattended for anesthetic monitoring, resulting in profound brain damage.
Revoked, stayed, 5 years probation on terms and conditions.
March 28, 1986
- MONTGOMERY, Stephen H., M.D. (A-27424)**—Bakersfield 725 B&P Code
Stipulated decision. Excessive injections of Talwin and Lino-cocin to one patient, and excessive injections of Talwin to another patient.
Revoked, stayed, 7 years probation on terms and conditions, including suspension and restriction of practice for 180 days.
May 16, 1986
- MOSELEY, Mortimer, M.D. (C-10795)**—Eddyville, Kentucky 2305 B&P Code
Stipulated decision. Kentucky license disciplined by Kentucky board for improper prescribing of controlled substances.
Revoked, stayed, 5 years probation on terms and conditions.
April 1, 1986
- PATING, Roger, M.D. (G-7248)**—Glendora 2361(e), 2411 [now 2234(e), 2261] B&P Code
Stipulated decision. Dishonesty in making false medical documents and records.
One year suspension, stayed, 4 years probation on terms and conditions.
March 31, 1986
- SAUKERSON, Stephen L., M.D. (G-15397)**—Chula Vista
Willful failure to comply with numerous conditions of probation of prior decision.
No appearance by respondent.
Revoked.
May 14, 1986
- SHEFFIELD, Harold N., M.D. (A-29173)**—Madera 2234(c) B&P Code
Stipulated decision. Repeated negligent acts in failing to perform adequate examinations and failing to obtain adequate history.
One year suspension, stayed, 5 years probation on terms and conditions.
March 7, 1986
- SHEIKEWITZ, Paul S., M.D. (G-30422)**—Laguna Beach 725, 2242 B&P Code; 11153 H&S Code
Stipulated decision. Excessive prescribing, prescribing without prior examination, and failure to prescribe for a legitimate medical purpose.
Revoked, stayed, 5 years probation on terms and conditions.
April 24, 1986
- VARNER, Carol R. D., M.D. (C-14957)**—El Cajon 2305 B&P Code
Several disciplinary decisions against her Michigan license by Michigan board, including revocation, for incompetent practice and excessive prescribing.
Revoked.
April 1, 1986
- VUU, Tran Nam, M.D. (A-39894)**—Santa Ana 490, 2234(e), 2261 B&P Code
Stipulated decision. Conviction for false Medi-Cal claims.
Revoked, stayed, 5 years probation on terms and conditions.
July 30, 1986
- WINN, Lawrence R., M.D. (AO-8690)**—Sacramento 490, 2234(a),(e), 2236, 2242, 2264, 2238 B&P Code
Aided and abetted his son, a marriage counselor intern, to practice medicine and treat patients at his weight control center, resulting in a misdemeanor conviction for allowing his son to use his physician's license. Also, issued and mailed a triplicate prescription for Preludin to a patient not under his care for a pathology or condition.
Revoked, stayed, 5 years probation on terms and conditions, including 90 days actual suspension.
April 9, 1986

WITTE, Eric H., M.D. (G-49577)—Harrisburg, Pennsylvania
2234(e) B&P Code
Dishonesty in making and filing forged and altered documents, including false applications and altered diplomas, for residency position. Mental illness a factor, then and now.
Revoked.
May 24, 1986

WYMORE, Michael L., M.D. (A-23463)—Santa Rosa
Stipulated decision. Violation of probation of prior disciplines by abusing drugs.
Revoked, stayed, 7 years probation on terms and conditions.
May 12, 1986

YAU, Pak Chenk, M.D. (A-34997)—Hayward
2234(b),(c),(d) B&P Code
Stipulated decision. Gross negligence, incompetence and repeated negligence in car, nose, throat practice.
Revoked, stayed, 5 years probation on terms and conditions.
March 28, 1986

ZAPANTA, Revilla I., M.D. (C-39538)—Parlin, New Jersey
2305 B&P Code
Stipulated decision. New Jersey board issued Consent Order relative to inflated insurance billing.
Revoked, stayed, 5 years probation on terms and conditions.
May 12, 1986

ADDENDUM

PRIAN, Gregory William, M.D. (C-39038)—Phoenix, Arizona
California discipline dated July 5, 1984 (reported in *Action Report*, January 1985) was vacated pursuant to Stipulation and Order.
The California decision was based on an Arizona Order for Probation, which Arizona reconsidered and vacated nunc pro tunc (now for then).
November 11, 1985

Voluntary Surrenders of License Accepted While Charges Pending. Accusations Dismissed

HOFFERT, Kevin G., M.D. (G-44095)—Mesa, Arizona
July 29, 1986

KRAMER, Lee Franklin, M.D. (A-15254)—Madison, Tennessee
April 21, 1986

MC GOVERN, Joseph J., M.D. (G-28870)—Oakland
May 1, 1986

MC INTYRE, Robert F., M.D. (C-40274)—Delavan, Wisconsin
May 1, 1986

WHITEHEAD, Craig A., M.D. (G-10378)—San Francisco
May 1, 1986

WISER, Lawrence C., M.D. (A-33741)—Colusa
May 2, 1986

Decisions After Hearing on Applicants Applying for Physician's License

BERGER, Abraham—San Francisco
480(a)(3), 581, 582, 583, 2089 B&P Code
Applicant submitted a forged medical diploma from a Dominican Republic medical school.
Application for physician's license is denied.
July 14, 1986

KOMOROV, Joseph—Houston, Texas
480(a)(2), (3), 496(b), 2234(c) B&P Code
Ejected from the FLEX examination for cheating.
Application for license denied.
April 10, 1986

Podiatrists

CLAUSSEN, Mark William, D.P.M. (E-2335)—Seal Beach
2234, 226, 810, 651 B&P Code
False advertising to Senior Citizen Bureau that services are free of charge, when not true. False billings to Medicare.
No appearance by respondent.
Revoked.
April 7, 1986

KORMAN, Robert, D.P.M. (E-1258)—San Francisco
810, 2234(a),(c), 2261, 2262 B&P Code
Dishonesty in submitting fraudulent billings to cheat insurance companies, involving several patients over several years and large sums of money.
Revoked.
February 26, 1986

BMQA Diversion Program for Physicians: An Alternative to Discipline

What is it?

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

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

The "Illness of Loneliness": Signs of Trouble

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

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

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

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

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

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

An Alternative to Discipline

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

A Confidential Program

Any physician who enters the Diversion Program, either by BMQA referral or by voluntary self-referral, has legal assurances that their identity as an impaired physician remains a confidential matter. However, if a physician in the program cannot be rehabilitated and is considered by the DEC to be unsafe to practice medicine, the physician will

be reported to the enforcement unit of BMQA for expeditious disciplinary action. This action results in public disclosure.

A Cooperative Effort

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

Costs of the Program

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

Where to Call

BMQA Diversion Program
Chet Pelton, Program Manager
(916) 924-2561

BMQA MEMBERS

Board President: Galal S. Gough, M.D.
Board Vice President: Rendel Levonian, M.D.

Division of Allied Health Professions

Jerome H. Unatin, M.D. (*Division President*) Torrance
John M. Tsao, M.D. (*Division Vice President*) Torrance
Richard Andrews Fresno
Andy Camacho Pasadena
(physician vacancy)

Division of Licensing

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James Magnall, M.D. (*Division Secretary*) Long Beach
Galal S. Gough, M.D. Montebello
John C. Lungren, M.D. Long Beach
Audrey Melikian Fresno
(public member vacancy)
(physician vacancy)

Division of Medical Quality

Eugene J. Ellis, M.D. (*Division President*) Los Angeles
Neal Maslan (*Division Vice President*) Brea
John W. Simmons (*Division Secretary*) Flintridge
John P. Kassabian, M.D. Pasadena
Rendel Levonian, M.D. Pico Rivera
Andrew Lucine, M.D. San Jose
(public member vacancy)

Executive Director: Kenneth J. Wagstaff

Continuing Medical Education (CME) Audit

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

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

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

Physicians who fail to make up deficient hours during the period allowed are ineligible for license renewal until BMQA receives evidence that the required hours have been completed.

If you have any questions regarding the CME audit you may contact Sherry Lynn Robinson, BMQA's CME Audit Coordinator, at (916) 924-2342.

SIGNING OF DEATH CERTIFICATES

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

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

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

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

Podiatry Examining Committee Changes Name; Renewal Fees Continue Unchanged

Under a bill authored by Senator Joseph Montoya, the Podiatry Examining Committee will be known as the California Board of Podiatric Medicine after January 1, 1987. The duties of the committee will remain as in the past, and it will remain within the general jurisdiction of the BMQA.

According to the sponsors of the legislation, the bill recognizes that consumers may not perceive the committee as the place to go for information about podiatry licensure or for assistance with a problem involving a podiatrist. By using the commonly recognized designation "board" they believe public visibility will be enhanced.

Fee Schedule Extended

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

The Podiatry Examining Committee and the community of licensed podiatrists strongly

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

Cost Recovery Program

In an effort to avoid future fee increases, SB 1879 includes language strengthening the committee's cost recovery program. Current law permits the committee to seek recovery of its enforcement costs when it prevails in a disciplinary action. This bill prevents renewal or reinstatement of a license if the licensee has failed to pay costs as ordered in a disciplinary decision.

In certain circumstances, however, the committee may formally agree with a licensee to repay costs within one year if there is a demonstration of financial hardship. The committee may conditionally renew or reinstate the license, contingent upon compliance with the agreement.

LEGISLATIVE CHANGES
(Continued from Page 1)

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

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

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

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

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

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

**Gluthemide (Doriden)
Now Schedule II Drug**

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

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

Are You About to Retire?

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

There are no statutes or regulations outlining specific protocols.

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

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

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

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

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

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

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

*If you don't notify us of your
new address . . .*

**YOU WON'T GET
A RENEWAL
APPLICATION**

*or other important information
from the Board.
Please write!*

Verifications
Board of Medical Quality Assurance
1430 Howe Avenue
Sacramento, CA 95825

**BOARD OF MEDICAL QUALITY ASSURANCE
1430 HOWE AVENUE
SACRAMENTO, CA 95825**

Executive Office (916) 920-6393

Physicians and Surgeons:

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

Allied Health Professions:

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

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