

Action Report

Medical Board of California

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ON PAGE 3

The Medical Board's policy statement declaring that sexual misconduct is unacceptable is published in its entirety.

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The Medical Board has put off any action on a potential fee increase pending staff's ongoing review of alternatives.

Medical Board of California Meeting Dates/Locations 1996

May 10-11 Sacramento
July 26-27 San Francisco
November 1-2 San Diego

Treatment Of Intractable Pain: A Guideline

The under treatment of intractable pain is often a more significant problem than over treatment, and one reason among many is the physician's fear that a complaint for over prescribing may put his/her license in jeopardy. The Medical Board of California is aware of this dilemma and encourages physicians to apply their best medical judgment when treating the patient, rather than basing their treatment on a fear of discipline by the MBC. To this end, the MBC adopted guidelines on prescribing in July 1994, which were intended to relieve that fear by clarifying the principles of professional practice that are endorsed by the Board.

MBC created these requirements to complement legislation (SB 1802, Greene, B&P Code section 2241.5) which established California public policy as supportive of the responsible practice of pain management. Simply stated, the treatment of chronic pain, as is true with any medical treatment, must be consistent with established medical standards which serve the patient's total well-being.

These guidelines are being republished to reinforce the MBC's position that the public is best served by a health care environment where physicians are free to exert their own best medical judgment consistent with accepted community standards of care.

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| <p>1. HISTORY/PHYSICAL EXAMINATION
A thorough medical history and physical examination must be accomplished. Prescribing controlled substances for intractable pain in California also requires evaluation by one or more specialists.</p> <p>2. TREATMENT PLAN, OBJECTIVES
The treatment plan should state objectives by which treatment success can be evaluated, such as pain relief</p> | <p>and/or improved physical and psychosocial function, and indicate if any further diagnostic evaluations or other treatments are planned. Several treatment modalities or a rehabilitation program may be necessary.</p> <p>3. INFORMED CONSENT
The physician should discuss the risks and benefits of the use of controlled substances with the patient or guardian.</p> |
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(Cont. on p. 6)

Medical Board Of California Quality Of Care In A Managed Care Environment

After convening meetings and public forums statewide, the Board adopted two statements on managed care at its February 3, 1996 meeting in Los Angeles. One is a policy statement which focuses on the primacy of the relationship between physician and patient, while the second addresses a concern about the growing trend toward a corporate, business orientation to health care delivery. For nearly a year, the Board's Committee on Quality of Care in a Managed Care Environment heard numerous accounts of treatments denied or delayed, physicians threatened with loss of their contracts if they advocated for their patients, arbitration which was anything but impartial, and other problems. The committee studied current laws and regulations, bills being considered in the 1995 legislative session, and policies adopted by other states.

In addition to the two statements, the Board is pursuing two changes in law. One would require any person who has final decision-making authority over medical matters in a managed care plan to have a current California license. The other would define medical decisions made by plan employees as constituting the practice of medicine. For additional information about these issues, or about upcoming meetings of the Committee, please call Linda McCready at (916) 263-2522.

The full text of both statements are on pages 4 and 5.

THE MISSION OF THE MEDICAL BOARD OF CALIFORNIA

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

Where Is The Board Going This Year?

by

Alan E. Shumacher, M.D., President of the Board

As the new president of the Medical Board, I welcome the challenges and controversial issues facing all of us this year. A top priority will continue to be reducing the time MBC investigations take. I expect improvement in this area, either from a fee increase that enables the Board to hire more investigators, from more efficient investigative techniques, or both.

I also believe that better cooperation is imperative from the medical and legal communities regarding information disclosure so that Medical Board staff can have access to the information they need to protect consumers. This, in part, means more timely and complete filing of 805s and more timely reporting from courts—the delays caused by refusal to cooperate with the Board drives up costs for all of us and does patients a disservice.

I am working very closely with the Board and its staff to achieve these goals, and I ask hospital administrators, defense counsel and courts, and the entire physician community to cooperate with us in this effort.

Managed Care

If ever there was a “hot button” topic, it is today’s furor over managed care. While the medical media have been bemoaning a variety of problems for some time, the popular media have only now begun to tackle the subject. TV tabloids, evening news broadcasts, newspapers and magazines have featured horror stories from all over the country about patients who were denied care or were wrested from the comforting familiarity of their longtime physicians. Similarly, we hear from doctors who are unable to advise or advocate for their patients because of contracts containing restrictive “gag” clauses.

The dramatic growth of managed care plans has been driven by spiraling health care costs, and by the efforts of employers to control the premiums they pay for their employees. The result is an increasingly violent collision among cost containment, the patients’ desire for the best possible care, and the traditional autonomy and advocacy role of the physician.

As we have previously reported in these pages, the Board has a standing committee examining the myriad issues emerging in managed care. After nearly a year of hearings, presentations, meetings and thought, this committee made several recommendations which were accepted by the Board on February 3, 1996. They are printed in this issue.

A crucial issue for the Board is that when a health care service plan denies service to a patient based on medical necessity or appropriateness, *the decision-making process constitutes the practice of medicine*. The Board has now taken

the position that those with authority to make these decisions (i.e., plan medical directors) must be physicians with current California licenses and must be accountable for their decisions. This does not mean that only physicians should review requests for authorization of care; we realize that this is not practical. However, if care is denied, and the denial is appealed by the patient or the attending physician, the ultimate decision must be made by a physician who is qualified to exercise medical judgment.

A closely related issue comes into play when a health care service plan employs

a physician not currently licensed in California. This may be true if plan headquarters are located in another state, or it may apply to some plans within California. Current California licensure ensures Board jurisdiction if it should be determined that a decision to deny treatment constitutes a violation of the Medical Practice Act (such as incompetence or negligence).

To address these problems, the Board-sponsored legislation also includes language to require current licensure in California for medical directors, or other physicians employed by such plans when they have the authority to make denials of care. We believe that any such denial should be in writing with the reasons clearly stated.

I would emphasize to everyone that laws are already in place that protect the physician’s traditional role as an advocate for the patient (B&P Code section 2056). While the Board’s jurisdiction is only over individual physicians, we can and will work with other agencies—such as the Department of Corporations—to ensure that these laws are obeyed.

Sexual Misconduct Policy

This issue contains an updated statement of our policy on sexual misconduct with patients. I cannot emphasize too strongly the tremendous responsibility doctors have to maintain an appropriate separation between their professional roles and personal behavior. The Board continues to receive a disturbing number of complaints from consumers alleging improper sexual conduct from their physicians. Please read the policy statement on page 3, and take it with the utmost seriousness.



Alan E. Shumacher, M.D.

Policy Statement: Medical Practitioners and Sexual Misconduct

In late 1995, the Medical Board's Division of Medical Quality established the Committee on the Classification of Sexual Offenses. The Committee was comprised of three Board members, Chairperson Philip Pace, Karen McElliott, and Alan Shumacher, M.D. A product of that Committee is the following Medical Board of California sexual misconduct policy statement. The Committee believes strongly, and the full Board concurs, that sexual misconduct is unacceptable and that it is vitally important for the Medical Board to adopt a public position and disseminate its policy to the medical community.

1. It is the policy of the Medical Board of California that a medical practitioner who engages in sexual activity with a current patient is guilty of unprofessional conduct.
2. While not detracting from the fundamental impropriety of such activity, the sanctions applied, as a result of a finding of misconduct, may vary according to the circumstances of each case.
3. Factors to be considered include the degree of dependence in the doctor/patient relationship, evidence of exploitation, the duration of the professional relationship and the nature of the medical services provided.
4. The policy refers to current patients. The termination of the doctor/patient relationship prior to sexual activity may be raised as a defense, but its strength will be dictated by consideration of the factors referred to in paragraph 3, as well as by the time lapse after the end of the professional relationship.
5. The rationale for the Board's position has been supported by medical disciplinary authorities.

Reasons for the policy include the following:

- 5.1 The doctor/patient relationship depends upon the ability of the patient to have absolute confidence and trust in the doctor.
- 5.2 The doctor is in a unique position regarding physical and emotional proximity. Patients are expected to disrobe and to allow doctors to examine them intimately.
- 5.3 The doctor/patient relationship is not one of equality. In seeking treatment, the patient is vulnerable. Exploitation of the patient is an abuse of power.
- 5.4 The doctor's role is one of authority, by virtue of the patient seeking assistance and guidance.
- 5.5 Breaches of the doctor/patient relationship have often caused severe psychological damage to the patient.
- 5.6 The community expectation of the medical professional is one of utmost integrity. The community must be confident that personal boundaries will be maintained and that patients are not at risk.
- 5.7 Improper sexual conduct by doctors promotes community criticism and damages the credibility of the medical profession as a whole.
- 5.8 The onus is on the doctor to behave in a professional manner. It is unacceptable to seek to blame the patient if a sexual relationship develops.
- 5.9 Personal involvement with the patient will often cloud clinical judgement.
6. The guiding principle is that there be no exploitation of the patient or abuse of the doctor's power. Each case must be examined in relation to the degree of dependency between patient and doctor and the duration and nature of the professional relationship.
7. The Board rejects the view that changing social standards require a less stringent approach. The nature of the professional doctor/patient relationship must be one of absolute confidence and trust. It transcends social values and only the highest medical standard is acceptable.

The Physician-Patient Relationship: A Policy Statement of the Medical Board of California

A California physician has both medical-legal and ethical obligations to his or her patients. These are well established in both law and professional tradition. The following statement reflects the policy of the Medical Board of California regarding the physicians it licenses and their patients.

1. Without regard to whether an act or failure to act is entirely determined by a physician, or is the result of a contractual or other relationship with a health care entity, the relationship between a physician and a patient must be based on trust, and must be considered inviolable. Included among the elements of such a relationship of trust are:

- Open and honest communication between the physician and patient, including disclosure of all information necessary for the patient to be an informed participant in his or her care.
- Commitment of the physician to be an advocate for the patient and for what is best for the patient, without regard to the physician's personal interests.
- Provision by the physician of that care which is necessary and appropriate for the condition of the patient, and neither more nor less.
- Avoidance of any conflict of interest or inappropriate relationships outside of the therapeutic relationship.

- Respect for, and careful guardianship of, any intimate details of the patient's life which may be shared with the physician.
- A career-spanning dedication by the physician to continually maintain professional knowledge and skills.
- Respect for the autonomy of the patient.
- Respect for the privacy and dignity of the patient.
- Compassion for the patient and his or her family.

2. The relationship between a physician and a patient is fundamental, and is not to be constrained or adversely affected by any considerations other than what is best for that patient. The existence of other considerations, including financial or contractual concerns are and must be secondary to the fundamental relationship.

3. Any act or failure to act by a physician that violates the trust upon which the relationship is based jeopardizes the relationship, and may place the physician at risk of being found in violation of the Medical Practice Act.

4. The policies expressed herein apply to all physicians in California, as well as those who make decisions which affect California consumers, including health plan medical directors and other physicians employed by or contracting with such plans.

Medical Board Of California Quality Of Care In A Managed Care Environment: Statement Of Concern

The Medical Board of California, having convened a committee with the charge to examine the Quality of Care in a Managed Care Environment, has heard a quantity of testimony from consumers, health providers, regulators, professional organizations, and representatives of managed care plans. In the course of reviewing that testimony, a number of issues and concerns have emerged with frequency. Specifically, those issues include a number which suggest that the business model of managed care as it is implemented by some plans, may result in an inappropriate restriction of the physician's ability to practice quality medicine, and, in turn, create negative consequences for the consumer of health care services. The number and seriousness of the cases cited during this testimony have caused the Medical Board of California to consider the

serious consequences which grow out of the imposition of a corporate model in the arena of medical practice.

The Medical Board of California recognizes that dramatic changes are taking place in the way that health care is delivered as the use of managed care plans increases. These changes are, as expected, yielding positive results in the provision of coverage to expanded populations. Unfortunately, the rapid expansion of the managed care model is also redefining the delivery of health care in ways that cause grave concern to patients, providers and the Medical Board of California. Specifically, the restriction of medically necessary services, whether as a result of legitimate efforts to restrict the overuse of medical care services, or for the less acceptable reasons of cost control, is

(Cont. on p. 5)

Managed Care: Statement of Concern (Cont. from p. 4)

becoming alarmingly frequent. Managed care plans, controlled as they are by corporate entities, all too often determine the delivery of care using a corporate business model rather than a medical model. This can result in the denial or delay of critically necessary medical services, the restriction of the provider's ability to freely practice and the placement of the provider in the position of attempting to be both a healer and a corporate gatekeeper. This serves to place an inappropriate burden on the physician whose first responsibility must always be to the delivery of quality medical care to the patient.

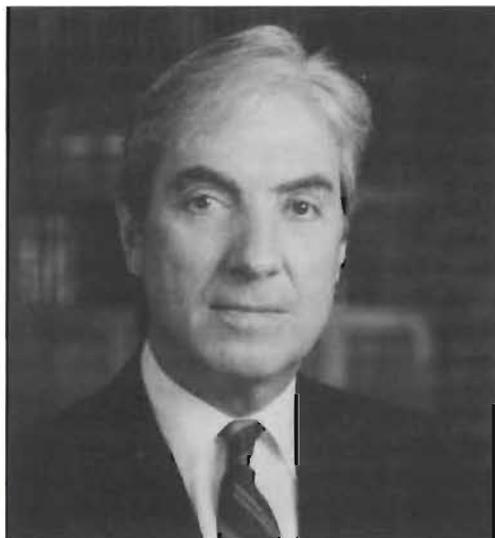
The Medical Board of California has the mission to "... protect consumers through proper licensing of physicians and surgeons and certain allied health professions and through the vigorous, objective enforcement of the Medical Practice Act." It has attempted to meet this mission by assuring that physicians are qualified by education and training to practice medicine and investigating those cases where substandard care has been alleged. This effort to assure that California's physicians are delivering quality care is being thwarted as more and more medical decisions are effectively taken out of the hands of physicians and are, instead, determined by plan administrators. The Medical Board of California recognizes that the movement to a predominately managed care environment will create changes in the current system of health care delivery as a result of new market forces being exerted. While it hopes that these forces will self-correct as the free market model becomes more mature in this industry, the Medical Board cannot overlook those situations which give rise to environments which create risks for the health care consumer.

The Medical Board of California finds and declares that there are real dangers which are imminent if there is not some immediate correction to the direction in which the system is headed. Specifically, the Medical Board believes there must be adequate time allowed for the provider to treat patients,

adequate compensation for necessary services and deference to the provider's medical judgment if physicians are to meet their legal, ethical and moral responsibilities to deliver appropriate health care to the public. On behalf of California's medical care consumers, the Board emphasizes its expectation that physicians are responsible for the provision of quality medical care. It further expresses the concern that the achievement of this objective is being jeopardized by decisions which are being made outside the context of the doctor/patient relationship and in a manner which is not always in the patient's interest. It is incumbent that providers take those actions they consider necessary to assure that the practices in question do not adversely affect the care which they render to their patients.

In furtherance of these concerns, it is the position of the Medical Board of California that decision-making authority over the determination of medical necessity or appropriateness of a proposed treatment is the practice of medicine and requires a license to practice medicine in California. This is without regard to where the person is located. Additionally, the Board extends this standard to include medical directors of health care service plans, other health care delivery organizations, insurers and other organizations with authority to determine medical necessity or appropriateness of any treatment. The Board also believes that the denial of any requested treatment for a condition which may be life-threatening or may result in persistent disability or illness should be timely and in writing, and should contain the reason or reasons for the denial. Finally, the Medical Board of California commits to maintaining the oversight of the emerging managed care environment and proposing statutory and regulatory action which furthers the goal of providing quality medical care to California consumers.

It is very important that others who are interested in, and have the responsibility for, quality in the managed care environment, most notably the California Departments of Corporations and Health Services, join the Medical Board in this important endeavor.



Jack G. Bruner, M.D. Appointed to Medical Board

On January 18, 1996 Governor Pete Wilson announced the appointment of Jack G. Bruner, M.D. to the Medical Board of California's Division of Medical Quality. Dr. Bruner, 60, is a Sacramento plastic surgeon who earned his medical degree from the California College of Medicine at Los Angeles County Hospital in 1963.

He has been a fellow of the American College of Surgeons since 1971. He is also an associate clinical professor of Plastic and Reconstructive Surgery at the University of California, Davis Medical School. He is the president and medical advisor of the Susan G. Komen Breast Cancer Foundation and a member of the California State Breast Cancer Advisory Council.

Dr. Bruner is a member of the American Society of Plastic and Reconstructive Surgeons, the American Society of Aesthetic Plastic Surgeons, the Sacramento Society of Plastic Surgeons, the American Medical Association, the California Medical Association, and the Sacramento County Medical Association.

Medical Board to Table Fee Increase Legislation

At its November 1995 meeting, the Medical Board of California voted to authorize staff's pursuit of legislation which would increase the ceiling for biennial license renewal from \$600 to \$700. This action did not automatically increase those fees, but made a future increase possible if it were determined to be necessary for continued program operations. However, at the same time, the Board directed staff to aggressively review all existing internal operations, as well as those services paid for by the MBC at the Office of the Attorney General and the Office of Administrative Hearings to determine if there were efficiency improvements available to make a fee increase unnecessary.

That review was exhaustively pursued over the ensuing three months and resulted in the identification of some measures which have the potential to reduce operating costs for the MBC, while maintaining service levels.

Much work needs to be done to determine if the early findings will lead to success, and MBC staff have already begun to draft the necessary new procedures. Nevertheless, while these options are as yet unproven, they have sufficient prospect to have enabled the MBC to call for a delay in the pursuit of legislation which would have made possible a fee

increase in the coming year. As a result, the MBC voted at its February 1996 meeting to defer the pursuit of any increase until such time as staff could further assess the value of recent program improvements, the prospect for future efficiencies, and the resulting funding needs for future operation.

Executive Director Ron Joseph committed to bring back to the Board within the year a complete management plan which will provide a clear picture of the Board's current program responsibilities, and the most cost-efficient options for maintaining its achievement of those responsibilities. Additionally, he will present to the Board the costs of implementing any proposed changes to its consumer protection functions. "The MBC continues to be responsible for a critical public protection role which must be adequately funded. Therefore, the result of this ongoing review will not guarantee that a fee increase will be unnecessary, but it will enable clear decisions to be made concerning the appropriate program levels which that role requires and the cost of those decisions," said Joseph. "Combined with our collective resolve to operate cost-effectively, this ensures that responsible public policy will be established pursuant to a forthright, value-based model."

Treatment Of Intractable Pain (Cont. from p. 1)

4. PERIODIC REVIEW

The physician should periodically review the course of opioid treatment of the patient and any new information about the etiology of the pain. Continuation or modification of opioid therapy depends on the physician's evaluation of progress toward treatment objectives.

Physician Alert

New Regulation Affecting Faxing of Schedule II Drugs

The Drug Enforcement Administration has made the following interpretation of Title 21, Code of Federal Regulations, (21 CFR), Section 1306.11(d), regarding emergency prescriptions for Schedule II controlled substances: A physician may transmit an emergency Schedule II prescription by facsimile provided that a written prescription is presented to the dispensing pharmacy within 72 hours. All other provisions of 21 CFR, Section 1306.11(d), including the requirement that "Authorization for Emergency Dispensing" be written on the face of the prescription, must be followed.

For further information, please contact DEA's Liaison and Policy Section at (202) 307-7297.

5. CONSULTATION

The physician should be willing to refer the patient as necessary for additional evaluation and treatment to achieve treatment objectives. Physicians should give special attention to those pain patients who are at risk for misusing their medications. The management of pain in patients with a history of substance abuse requires extra care, monitoring, documentation and consultation with addiction specialists, and may entail the use of agreements between the provider and the patient to specify rules for medication use.

6. RECORDS

The physician should keep accurate and complete records, including the medical history and physical examination, other evaluations and consultations, treatment plan objectives, informed consent, treatments, medications, agreements with the patient, and periodic reviews.

7. COMPLIANCE WITH CONTROLLED SUBSTANCES LAWS AND REGULATIONS

To prescribe substances, the physician must be appropriately licensed in California and comply with federal and state regulations for issuing controlled substances prescriptions. Documented adherence to these guidelines will substantially establish the physician's responsible treatment of patients with intractable pain and will serve to defend that treatment practice in the face of complaints which may be brought.

DISCIPLINARY ACTIONS: NOVEMBER 1, 1995 TO JANUARY 31, 1996 Physicians and Surgeons

ACKER, GERALD A., M.D. (G-18476) Brookville, NY
B&P Code §2305. Discipline by New York Board for misrepresenting his professional qualifications to a medical publication and hospital. Revoked. Default. August 24, 1994

AMES, BRUCE, M.D. (A-20336) Redding, CA
B&P Code §§2234(c), 2238, 4232, 2242. Repeated negligent acts in neurosurgery care. Prescribed drugs excessively and without a good faith medical examination and medical indication. Violated statutes regulating drugs. Failed to maintain adequate required records for Schedule II controlled drugs. Furnished Lorazepam for self-use. Revoked, stayed, 5 years' probation on terms and conditions. May 12, 1995

ANDRES, VALENTINO, M.D. (G-14923) Yuba City, CA
B&P Code §729. Stipulated Decision. Conviction by no contest plea to 1 count of violating B&P Code §729—sexual exploitation of patient by a psychotherapist. Revoked, stayed, 7 years' probation on terms and conditions, including a period of actual suspension. November 15, 1995

ANDREWS, RAWLE, M.D. (C-26336) Houston, TX
B&P Code §2305. Discipline by Texas Board for prescribing controlled substances and substances with addictive potential to 2 patients for extended periods of time without adequate indication. Revoked. Default. December 13, 1995

APPLEGATE, RICHARD L., M.D. (A-20130) Merced, CA
B&P Code §§2234, 2239, 2238. Stipulated Decision. Self-abuse of alcohol and controlled substances (Xanax and Nembutal). Deceived a colleague and neighbor into issuing an inappropriate prescription for Xanax for his personal use through false representation. Revoked, stayed, 3 years' probation on terms and conditions. January 16, 1996

ARFANIA, JAMSHID, M.D. (A-025755) Yonkers, NY
B&P Code §§822, 2234(e). Stipulated Decision. Ability to practice safely impaired by mental illness. Revoked, stayed, 5 years' probation on terms and conditions, including 30 days' actual suspension. November 11, 1995

BERMAN, MARHSALL L., M.D. (G-22551) Los Angeles, CA
B&P Code §822. Stipulated Decision. Mental disorder impairing safe practice. One year suspension, stayed, 5 years' probation on terms and conditions. December 29, 1995

BICHER, JAMES HAIM, M.D. (A-37798) Tarzana, CA
B&P Code §§2234(b)(c), 651. Misleading advertisement regarding the use of hyperthermia treatment in conjunction with chemotherapy and radiation therapy. Gross negligence and repeated acts of negligence in hyperthermia treatment. Revoked, stayed, 5 years' probation on terms and conditions. December 29, 1995

BINDAL, ASHWANI KUMAR, M.D. (A-41237) Fremont, CA
B&P Code §§495, 2233. Stipulated Decision. In treatment of a single patient, he failed to conduct a complete neurological examination as documented in his initial history and physical. Public Letter of Reprimand. January 26, 1996

BIX, CINDY JO, M.D. (G-69033) Van Nuys, CA
B&P Code §§2234, 2238, 2236. Stipulated Decision. Under the influence of a controlled substance while on duty in the emergency room of a Dinuba hospital. Earlier in 1994, suffered a conviction in Michigan for drug possession which resulted in discipline of her Michigan license. Revoked, stayed, 5 years' probation on terms and conditions. January 18, 1996

BRESLOW, ALAN D., M.D. (G-8113) El Sobrante, CA
B&P Code §§822, 2234, 2236, 2238. Stipulated Decision.

Explanation of Disciplinary Language

1. **"Revoked"**— The license is canceled, voided, annulled, rescinded. The right to practice is ended.

2. **"Revoked - Default"**— After valid service of the Accusation (formal charges), the licensee fails to file the required response or fails to appear at the hearing. The license is forfeited through inaction.

3. **"Revoked, stayed, 5 years' probation on terms and conditions, including 60 days' suspension"**— "Stayed" means the revocation is postponed, put off. Professional practice may continue so long as the licensee complies with specified probationary terms and conditions, which, in this example, includes 60 days' actual suspension from practice. Violation of probation may result in the revocation that was postponed.

4. **"Suspension from practice"**— The licensee is benched and prohibited from practicing for a specific period of time.

5. **"Temporary Restraining Order"**— A TRO is issued by a Superior Court Judge to halt practice immediately. When issued by an Administrative Law Judge, it is called an ISO (Interim Suspension Order).

6. **"Probationary Terms and Conditions"**— Examples: Complete a clinical training program. Take educational courses in specified subjects. Take a course in Ethics. Pass an oral clinical exam. Abstain from alcohol and drugs. Undergo psychotherapy or medical treatment. Surrender your DEA drug permit. Provide free services to community facility.

7. **"Gross negligence"**— An extreme deviation from the standard of practice.

8. **"Incompetence"**— Lack of knowledge or skills in discharging professional obligations.

9. **"Stipulated Decision"**— A form of plea bargaining. The case is negotiated and settled prior to trial.

10. **"Surrender"**— Resignation under a cloud. While charges are pending, the licensee turns in the license — subject to acceptance by the relevant Board.

11. **"Probationary License"**— A conditional license issued to an applicant on probationary terms and conditions. This is done when good cause exists for denial of the license application.

12. **"Effective date of Decision"**— Example: "July 8, 1994" at the bottom of the summary means the date the disciplinary decision goes into operation.

13. **"Judicial Review recently completed"**— The disciplinary decision was challenged through the court system—Superior Court, maybe Court of Appeal, maybe State Supreme Court—and the discipline was upheld. This notation explains, for example, why a case effective "October 10, 1992" is finally being reported for the first time four years later in 1996.

Ability to practice safely impaired by physical illnesses. Conviction of an offense substantially related to the qualification, functions, or duties of a physician. Prior discipline. Revoked, stayed, 7 years' probation on terms and conditions, including 15 days' actual suspension. January 16, 1996

BUTLER, JULIUS C., M.D. (G-59219) Fair Oaks, CA
B&P Code §2234(c). Stipulated Decision. Repeated negligent acts in the care and management of OB-GYN patients. Revoked, stayed, 5 years' probation on terms and conditions. December 11, 1995

CARRABY, ARNETT, M.D. (G-47836) Los Angeles, CA
B&P Code §§2286, 2234(b). Stipulated Decision. Gross negligence in a radial keratotomy case. Aided and abetted the unlawful practice of medicine by working as an eye surgeon (just after residency) for a medical clinic operated by a lay entrepreneur claiming to be only a "management service." Revoked, stayed, 3 years' probation on terms and conditions. December 13, 1995

COOPER, LAWRENCE N., M.D. (G-27092) San Diego, CA
B&P Code §2234(b). Stipulated Decision. Gross negligence in misdiagnosing cataracts and scheduling for cataract surgery. Revoked, stayed, 3 years' probation on terms and conditions. December 29, 1995

DANG, SATINDER K., M.D. (A-31227) Tustin, CA
B&P Code §2234(b). Stipulated Decision. Gross negligence in administering a regimen of depo-privera, a hormonal contraceptive, to a young, infertile patient seeking treatment to become pregnant. Revoked, stayed, 3 years' probation on terms and conditions. January 19, 1996

Help Your Colleague By Making A Confidential Referral

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

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

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

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

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

ECOFF, ARTHUR, M.D. (A-29185) Denver, CO
B&P Code §2305. Discipline by Colorado Board for substandard practice and sexual conduct with patients. Also, mental disability. Revoked. Default. January 29, 1996

ERGIN, NEVIT O., M.D. (C-37305) Los Angeles, CA
B&P Code §2234(c)(d). Stipulated Decision. During facial dermabrasion procedure in the office, patient suffered seizures and cardiac and respiratory arrest. Incompetence in CPR failures. Repeated negligent acts in failures to be adequately equipped, adequately prepared, and adequately responsive. Revoked, stayed, 5 years' probation on terms and conditions. January 18, 1996

FELDER, JERALD B., M.D. (C-25390) Pendleton, OR
B&P Code §2305. Supplemental privileges in endoscopic sinus surgery revoked while serving in the U.S. Navy. Stayed suspension, 5 years' probation on terms and conditions. January 2, 1996

GAGLIANO, ANGELO V., M.D. (G-49526) San Antonio, TX
B&P Code §2305. Stipulated Decision. Discipline by Texas Board for administering anesthesia on a non-emergent, critically ill surgical patient without first establishing appropriate monitoring. California: Public Reprimand. November 16, 1995

GROVER, JEOTSNA, M.D. (A-43590) Santa Cruz, CA
B&P Code §2227. Stipulated Decision. Accusation was based on procedures used during and after the delivery of 3 infants in the management of obstetric cases. Public Letter of Reprimand. November 15, 1995

HECK, BARRY J., M.D. (A-31068) Redondo Beach, CA
B&P Code §2305. Discipline by Connecticut Board for sexually abusing 2 patients, including rape and sodomy with one. New York Board revoked based on Connecticut discipline. California: Revoked after hearing. November 5, 1995

HEMRIC, JERRY, M.D. (C-38190) San Diego, CA
B&P Code §§2234(b)(c)(e), 726, 2236. Stipulated Decision. Gross negligence and sexual misconduct with female patients in dermatology practice. Dishonesty. Revoked, stayed, 7 years' probation on terms and conditions including 120 days' actual suspension. January 29, 1996

HIGGENBOTHAM, ROBERT WRIGHT, M.D. (G-28752) San Luis Obispo, CA
B&P Code §2237. Stipulated Decision. Conviction for cultivation of marijuana. Revoked, stayed, 4 years' probation on terms and conditions. December 7, 1995

HILDING, RONALD F., M.D. (G-12500) Paradise Valley, AZ
B&P Code §2305. Arizona Board placed his Arizona license on inactive status with cause. California: Revoked. Default. December 4, 1995

HINDLER, HERBERT, M.D. (A-23090) San Luis Obispo, CA
B&P Code §2234(c). Stipulated Decision. Repeated negligent acts in that poor documentation and anesthetic management were insufficient in a hospital setting. One year suspension, stayed, 5 years' probation on terms and conditions. January 2, 1996

JACKSON, NICHOLAS MAXWELL, M.D. (C-38425)
Kerrville, TX

B&P Code §2305. Discipline by Texas Board for self-supply of Dalgan, a non-controlled drug, resulting in addiction for himself and his wife. Revoked, stayed, 7 years' probation on terms and conditions. November 5, 1995

JERRYTONE, JOHN J., M.D. (A-44089) Anaheim, CA

B&P Code §§725, 2234(c), 2242, 2234, 810. Stipulated Decision. Repeated negligent acts in pediatric practice. Inappropriate choice of medications, including Lincocin. Excessive prescribing, excessive billings, excessive fees. Revoked, stayed, 3 years' probation on terms and conditions. December 8, 1995

JONES, RICHARD E., M.D. (G-4278) Los Altos, CA

B&P Code §2234(c)(e). Acted dishonestly and corruptly in exploiting an elderly female patient in a nursing home to take advantage of her assets and her testamentary will. Revoked. Upheld on judicial review recently. August 16, 1995

JUDICE, RONALD JOSEPH, M.D. (C-36089) Houma, TX

B&P Code §2305. Discipline by Louisiana Board for habitual or recurring abuse of alcohol. California: Revoked. Default. November 16, 1995

LEE, JAE WHAN, M.D. (A-32086) Northridge, CA

B&P Code §2234(c). Stipulated Decision. Repeated negligent acts in failing to refer 2 patients for diagnostic testing for cancer of the digestive system despite history, symptoms, and clinical findings warranting the testing. Revoked, stayed, 5 years' probation on terms and conditions. January 19, 1996

MASTERSON, GILBERT AL, M.D. (G-51452) Redlands, CA

B&P Code §2305. Stipulated Decision. Discipline by Illinois Board for continuing to prescribe for "a limited, hard to treat psychiatric patient population" in Illinois after the psychiatrist moved to California and his Illinois license had expired. Public Reprimand. January 19, 1996

MEADE, TIMOTHY JAMES, M.D. (G-63689)

Minnetonka, MN

B&P Code §§2234, 2238, 2239, 2261. Stipulated Decision. Self-abuse of narcotic Demerol through the use of false prescriptions and false dispensing entries in the office drug logbook. Revoked, stayed, 7 years' probation on terms and conditions, including 30 days' actual suspension. November 16, 1995

MILLER, CONRAD STEPHEN, M.D. (G-23381)

Water Mill, NY

B&P Code §2305. Stipulated Decision. Discipline by New York Board for gross negligence for failing to maintain a record for each patient which accurately reflected evaluation and treatment. Revoked, stayed, 2 years' probation on terms and conditions. November 22, 1995

MOSHREFZADEH, MASHALLAH, M.D. (A-39663)

Sun City, AZ

B&P Code §2305. Stipulated Decision. Discipline by Arizona Board requiring supervised flexible sigmoidoscopies and

education courses on cancer and colon cancer screening and treatment, for failing to properly diagnose a rectal polyp in a patient found with cancer of the rectum. California: Public Reprimand. November 16, 1995

NEWSOME, EDDIE LEANDERS, M.D. (G-25712) Oakland, CA

B&P Code §§726, 2234(b)(e). Sexual misconduct with 2 female patients, which also constituted gross negligence and dishonesty. An impulse control problem. Revoked, stayed, 10 years' probation on terms and conditions. December 20, 1995

PHAN, NGUYEN KIM, M.D. (G-34903) Oakland, CA

B&P Code §2236. Stipulated Decision. Conviction for submitting false Medi-Cal claims. Revoked, stayed, 4 years' probation on terms and conditions, including actual suspension of 30 days. November 6, 1995

PATEL, SURENDRA M., M.D. (A-50956) San Leandro, CA

B&P Code §§2238, 2242. Stipulated Decision. Dispensed drugs without a good faith prior examination, and without proper labeling required under B&P Code §4228. Well intended but misguided. Public Reprimand. November 18, 1995

ROGERS, RONALD A., M.D. (G-33913) El Sobrante, CA

B&P Code §2242. Stipulated Decision. Prescribed drugs without good faith prior examination. Public Letter of Reprimand. January 4, 1996

SANDERS, JAMES HICKMAN, M.D. (C-32698)

Barbourville, KY

B&P Code §2305. Discipline by Kentucky Board for "operating a drug mill by prescribing controlled substances upon demand for money." Revoked, after contested hearing in California. January 11, 1996

SCHIRO, CHARLES H., M.D. (A-20398) Yuba City, CA

B&P Code §2305. Discipline by Indiana Board related to non-compliance with conditions in his probationary license when he left Indiana. Public Reprimand. December 18, 1995

SHAMSIAN, SAEID, M.D. (A-40648) Kings Point, NY

B&P Code §2305. Stipulated Decision. Discipline by New York Board for unconsented sexual contact with a female patient. Suspended stayed, 2 years' probation on terms and conditions. January 16, 1996

SHENASA, MOHAMMAD, M.D. (A-50310) Pleasanton, CA

B&P Code §2305. Stipulated Decision. Discipline by Pennsylvania Board. Public Letter of Reprimand. December 8, 1995

SOLAN, GWEN EMILY, M.D. (A-48883) Lumberton, NC

B&P Code §2305. Stipulated Decision. Discipline by Massachusetts Board for drug addiction and prescribing violations, including false prescriptions to obtain controlled drugs for self-use. Revoked, stayed, 5 years' probation on terms and conditions. January 2, 1996

TAFEEEN, MARK IRA, M.D. (G-28463) Plantation, FL

B&P Code §2305. Stipulated Decision. Reprimand by Florida Board for failing to disclose partner's fabrication of patient records during an inquiry. Public Reprimand. January 6, 1996

TJONG, PIANG SIOE, M.D. (A-32475) Fresno, CA

B&P Code §2234(c). Stipulated Decision. Repeated negligent acts in the care and treatment of patients as a primary care physician. Revoked, stayed, 5 years' probation on terms and conditions. December 7, 1995

TORRES, CARLA HELEN, M.D. (A-41438) Santa Monica, CA

B&P Code §§490, 820, 822, 2004, 2234, 2236. Incompetent to practice medicine by reason of mental impairment. A history of violence and bizarre behavior resulting in detention, commitment and conviction. Revoked. Default. December 29, 1995

TOUMAJIAN, ROBERT J., M.D. (C-31636) Bellflower, CA

B&P Code §2234(c)(e). Stipulated Decision. Repeated negligent acts in vascular surgery. Dishonesty in filing false answers in hospital's Request for Reappointment form. Revoked, stayed, 5 years' probation on terms and conditions. October 10, 1995

VIETZ, HUGO, M.D. (C-21675) Slidell, LA

B&P Code §2305. Stipulated Decision. Discipline by Louisiana Board by a Consent Decree stating that "investigation indicates that Dr. Vietz may have issued controlled substances without legitimate medical justification therefore or in other than a legal or legitimate manner." Revoked, stayed, 3 years' probation on terms and conditions. December 7, 1995

WALKER, JUDITH, M.D. (G-45212) Palm Springs, CA

B&P Code §§490, 2236, 2238, 2289, 4232. Stipulated Decision. Self-use and self-prescribing of controlled substances. False prescriptions for controlled substances. Failed to maintain appropriate drug records to show disposition of drugs. Conviction for hit and run. Revoked, stayed, 7 years' probation on terms and conditions, including 6 months' actual suspension. January 30, 1996

YEE, ROBERT Y., M.D. (C-30713) Santa Rosa, CA

B&P Code §2286. Stipulated Decision. Aiding and abetting the unlicensed corporate practice of medicine. Public Reproval and Reprimand. December 29, 1995

ZEVALLOS, CARLOS A., M.D. (C-40546) Sun Valley, CA

B&P Code §2234(b)(d). Stipulated Decision. Gross negligence and incompetence in anesthesiology practice in failing to successfully intubate and establish an airway for a C-section patient in cardiac arrest, who died. Revoked, stayed, 5 years' probation on terms and conditions. December 7, 1995

ZUCKER, MARTIN L., M.D. (C-13040) Sioux City, IA

B&P Code §2305. Discipline by Iowa Board "for the inability to practice medicine and surgery with reasonable skill and safety." Revoked. Default. December 11, 1995

CORRECTION

ALONSO, FRANCISCO, M.D. (A-23802) Los Banos, CA

In the January 1996 *Action Report*, we summarized the Alonso penalty: "Revoked, stayed, 5 years' probation on terms and conditions." This was incorrect. This was the first decision, which was set aside by the Superior Court. Subsequently, a second decision was negotiated providing for this different, lesser penalty: "Public Reproval and Reprimand." We apologize for the error.

HEARING AID DISPENSERS

LINN, RONALD L. (HA-1408) Lake San Marcos, CA

B&P Code §§3401(k), 3362, 3364, 3365, 3427.5. Among other violations, allowed an unlicensed person to use his license to operate a hearing aid dispensing business and hold himself out as authorized to fit and sell hearing aids, in exchange for a profit-sharing interest. Revoked. Default. January 15, 1996

PATTERSON, LAWRENCE (HA-1386) St. Helena, CA

B&P Code §§3365(c)(d)(e)(f)(g), 3401(d). Failed to provide proper hearing aid receipt. Failed to comply with citation order. Conviction for acting as car dealer without a license. Revoked, stayed, 5 years' probation on terms and conditions. November 3, 1995

SUTTON, BELINDA (HA-2884) La Mirada, CA

H&S Code §11173. Conviction for possession of methamphetamine. Revoked. Default. December 1, 1995

PHYSICIAN ASSISTANTS

CATES, JOHN H. (PA-10552) Bakersfield, CA

B&P Code §§2239, 2238, H&S Code §11173. Stipulated Decision. Obtained controlled substance (Vicoden) for self-use through deceit and subterfuge by having the M.D.'s office staff phone in the prescription. Revoked, stayed, 4 years' probation on terms and conditions. November 1, 1995

PLANK, DON G. (PA-12882) Rock Island, IL

B&P Code §2233. Stipulated Decision. Discipline by Illinois Board for wrongly informing patient she had cancer or precancerous cells requiring excision surgery, when in fact patient did not have cancer or precancerous cells. Reprimand. December 4, 1995

PHYSICAL THERAPISTS

MATHEWS, JOHN R. (PT-2146) Santa Barbara, CA

B&P Code §§726, 2660(h). Pattern of sexual abuse and sexual misconduct with female patients during physical therapy sessions constituted gross negligence. Revoked. November 2, 1995

ATHERTON, JOHN (PT-14387) Tahoe City, CA

B&P Code §2260(I). Stipulated Decision. Failed PT license exam in Colorado, yet worked in Colorado Hospital with altered license documents and falsely signed insurance claims as a Colorado R.P.T. Revoked, stayed, 3 years' probation on terms and conditions. December 1, 1995

DOCTOR OF PODIATRIC MEDICINE

MARKS, MICHAEL D., D.P.M. (E-1259) Elmira, NY

B&P Code §2305. Stipulated Decision. Discipline by New York Board for practicing beyond the scope of podiatry when he performed chiropractic adjustments for 2 podiatric patients. Revoked, stayed, 3 years' probation on terms and conditions. November 1, 1995

PSYCHOLOGIST

CONDY, SYLVIA ROBBINS, Ph.D. (PSY-10005)

Anchorage, AK

B&P Code §2960(m). Stipulated Decision. Discipline by Alaska Board for billing a health insurance carrier for extended consultation when in fact the billings represented time spent in presenting expert witness testimony at client's criminal trial. Revoked, stayed, 5 years' probation on terms and conditions. December 18, 1995

RESPIRATORY CARE PRACTITIONERS

DONALD, MICHAEL GARY (RCP-15063) San Jose, CA
B&P Code §§3750(d), 3750.5(b). Conviction for possession of a controlled substance and a hypodermic needle. Also, conviction for theft. Revoked. Default. November 17, 1995

HUDDLESTON, JOHN CHARLES (RCP-12514)

North Hollywood, CA

B&P Code §§490, 3750(j). Stipulated Decision. Conviction for spousal battery. Revoked, stayed, 3 years' probation on terms and conditions. November 15, 1995

KOHN, CHRISTOPHER (RCP-3920) Oakland, CA

B&P Code §§3750.5(b)(c), 3750, 3752. In 1991, conviction for disorderly conduct: Under the influence of alcohol, unable to exercise care for own safety or safety of others. In 1992, conviction for reckless driving involving alcohol. Revoked. December 15, 1995

THURLOW, MARK DOUGLAS (RCP-11855) Clovis, CA

B&P Code §3750(d). Conviction for assaulting his girlfriend and causing great bodily injury. Revoked. Default. November 17, 1995

WOODSON, THOMAS C. (RCP-9526) Sherman Oaks, CA

B&P Code §§490, 3750(d), 3752.6. In 1982, conviction for disturbing the peace (public toilet). In 1986, conviction for indecent exposure (public rest room). In 1992, conviction for solicitation of a lewd act in public rest room. Revoked. Default. November 17, 1995

WRIGHT, RICHARD A. (RCP-11668) Pasadena, CA

B&P Code §§3750, 3750.5, 3750(g). Conviction for unlawful possession of cocaine. Self-use of controlled substance impairing ability to practice safely. History of excessive use of alcohol. Revoked. Default. November 17, 1995

SURRENDER OF LICENSE WHILE CHARGES PENDING

PHYSICIANS AND SURGEONS

BARR, ROBERT M., M.D. (A-9377) San Jose, CA

November 8, 1995

BLAKEWOOD, ROBERT, M.D. (C-28287) San Anselmo, CA

October 11, 1995

BUIE, DAN H., M.D. (C-20730) Wellesley Hills, MA

August 11, 1995

BOAL, CHRISTOPHER KIMBERLY, M.D. (A-23333)

Carmel Valley, CA

December 29, 1995

CHAN, KWOK WEI, M.D. (C-42736) Shrewsbury, MA

August 25, 1995

CHIAROTTINO, GARY D., M.D. (C-27432) Bellingham, WA

January 19, 1996

CUEVA, ROBERTO A., M.D. (AFE-19471) Anaheim, CA

January 17, 1996

DAWSON, WALTER L., M.D. (AFE-11206) Sausalito, CA

December 27, 1995

GRAFF, RUSSELL, M.D. (C-35337) Grand Rapids, MI

January 18, 1996

HEYWOOD, JAMES R., M.D. (A-24877) Tempe, AZ

December 7, 1995

JACOBS, RALPH W., M.D. (G-2046) San Rafael, CA

January 19, 1996

LEE, JOHNG SUP, M.D. (C-41678) Highland, CA

December 11, 1995

LEVINGER, ERNEST, M.D. (G-2394) San Francisco, CA

January 28, 1996

LIND, MYRON, M.D. (G-12022) Sherman Oaks, CA

December 30, 1995

REISWIG, ORAN K., M.D. (A-18043) Chico, CA

January 2, 1996

RENSON, JEAN FELIX, M.D. (A-26553) Stockton, CA

November 7, 1995

ZLATNIK, PHILIP A., M.D. (C-18769) San Rafael, CA

November 3, 1995

PSYCHOLOGISTS

SMITH, CAMERON HEWES, Ph.D. (PSY-6204)

La Jolla, CA

November 22, 1995

SMITH, WILBURN, Ph.D. (PSY-1015) Sun City, CA

December 7, 1995

RESPIRATORY CARE PRACTITIONERS

BROWN, LOUISE (RCP-4095) Reno, NV

November 11, 1995

MOORE, PATRICK BRANNON (RCP-3684) Chico, CA

November 11, 1995

Business and Professions Code Section 2021(b) requires physicians to inform the Medical Board of any address change.



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ACTION REPORT-APRIL 1996

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