

Action Report

Medical Board of California

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Managed Health Care Improvement Task Force: Final Recommendations

by
Bernard S. Alpert, M.D., Secretary, Medical Board of California

The much-publicized California Health Care Improvement Task Force recently completed its work by delivering a report to the Governor's Office pursuant to AB 2343 (Richter, Ch. 815, Statutes of 1996). Much has been, and will be, written about the product of a 10 month-long effort by the Task Force, which was made up of a diverse group of 30 appointed members representing health plans, purchasers, enrollees, physicians, and consumer groups. To be sure, a consensus document produced by such a disparate group of participants cannot absolutely reflect the views of any single constituency in the managed care debate. But, as a member of that Task Force, I am heartened by many of the principles which received support from a majority (and, to my surprise, sometimes all) of the participants. Among the 64 multi-part recommendations of the Task Force there were many which, if enacted, could greatly improve the care available to California's health care consumers by attempting to restore the fundamental relationship of the patient and the physician. I would offer some personal observations on a few of those here:

Improving Regulation

Of major concern to most every observer of the current environment of managed health care is the question of who is guaranteeing quality of care under the current, fragmented health care regulatory structure. As health care service plans (plans) have grown in their influence over the delivery of health care, their regulatory oversight has remained with the Department of Corporations, the entity originally designated to regulate their business practice and solvency, not their ability and willingness to responsibly decide questions of medical necessity. The Task Force recommended that this responsibility for the regulation of health care service plans be transferred to a new state entity with the subsequent

phase-in of the regulation of other health insurers and risk-bearing medical groups. Expertise in oversight of the quality of health care delivery is a sine qua non for the new regulator.

If plans, and other patient-responsible entities, are to be held to the same standards of quality health care as physicians are currently, this recommendation is the single most important one to come out of the Task Force's work. I look forward to the Medical Board of California taking an active role in the upcoming discussions on implementation of this recommendation, and anticipate continuing discussions in these pages in the future.

Risk Adjustment

This is an area which, if properly addressed, will have a far-reaching, positive impact on how care is delivered to the sickest patients. Current methods of capitation financially punish providers who have a number of chronically and/or seriously ill patients in their practice. Such disincentives work against encouraging otherwise-dedicated physicians to concentrate on those who may be in greatest need of their services, a moral paradox of the current system.

The Task Force recommended that efforts be made to develop reliable processes for risk adjustment; that is raising or lowering standard actuarial payments on the basis of the health status and the resulting costs of treating a given population. Such a system would not only restore fairness to the payment system, but would provide incentives to develop a continuing expertise for the care of these patients, correcting the paradox. This is a critical need in the system if managed care is ever to become more than a mere cost-cutting feature of the health care delivery system.

(Continued on p. 4)

Medical Board of California Meeting Dates/Locations

1998

May 7 - 9 Sacramento
 July 30 - Aug. 1 San Francisco
 Nov. 5 - 7 San Diego

All meetings are open to the public.

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.

President's Report



Thomas A. Joas, M.D.
1998 President of the Board

In November 1996 the Medical Board formed a committee, which I chair, now called the Post-Licensure Assessment Committee, whose goal it is to examine and implement ways to assist physicians in remaining current with medical and legal standards of practice. A major vehicle for the dissemination of this information will be the *Action Report*. With this issue, we begin a series of articles designed to inform physicians of areas where practice habits violate the Medical Practice Act and are frequently seen at the Board. To make these articles valuable as educational tools, they will contain explanations of the problem and the law or community standard. We will send copies of the articles to physicians' associations and ask for publication in their journals/newsletters to help disseminate this information.

The article, "Physician Obligations Regarding Death Certification," beginning on page 6 addresses a number of complaints we receive in this area. For example, funeral homes, families, and public agencies contact the Board periodically complaining that a body has arrived, but that the physician has not signed the death certificate. We usually are successful in mediating this type of problem, but some physicians have been cited under the Board's cite-and-fine authority for failure to sign a death certificate in a timely manner. The average amount of such fines is \$500.

Consistent with the goal of the Post-Licensure Assessment Committee, I would like to reiterate the findings published in the May 1993 *Action Report*, "Can Discipline be Prevented? The High Cost of Bad Judgment." The author, former Medical Board Assistant Deputy Director Tom Heerhartz, found after a personal assessment of 100 Accusations filed against physicians, that *most physicians could have avoided discipline by using better judgment or behavior*. Indeed, more than half of the 100 Accusations (more than 95 percent of which, statistically, result in discipline) could have been prevented by the exercise of better judgment and the maintenance of higher ethical standards.

In Fiscal Year 1996-97, the Board received 10,123 complaints, opened 2,039 cases, closed 2,255 cases after investigation, and referred 567 cases to the Health Quality Enforcement Section of the Attorney General's Office. The

majority of these cases could have been avoided by physicians using better judgment and/or having better training. It is critical that physicians comply with continuing medical education requirements and remain current with advances made in their areas of practice.

The Board recognizes that in medicine, as in any profession, some degree of bad judgment and unacceptable behavior will nevertheless occur. At the same time, we view as significant our responsibility to remind physicians that, with more careful use of their good judgment and common sense combined with better education and training, most discipline can be prevented.

Managed Care

The Medical Board has long identified managed care as a priority and will continue to establish positions relative to major issues on which managed care and patient safety converge. The Board's involvement will be limited to HMO-related management as it affects patient care. At our next Board meeting in May, the Board's Committee on the Quality of Care in a Managed Care Environment will discuss recommendations of its subcommittee members Alan E. Shumacher, M.D. and Bernard Alpert, M.D.

Dr. Alpert's summary of the final recommendations of the Governor's Task Force on Managed Care begins on the front page of this *Action Report*. We also anticipate promoting consumer-oriented bills this year before the California Legislature, including SB 324 (Rosenthal). This Medical Board-sponsored, two-year bill would require that those who make decisions regarding medical necessity or appropriateness of treatment be California-licensed physicians.

Physicians' Address of Record Ruled to be Public Information

In a February 25, 1998 decision, San Francisco Superior Court Judge David A. Garcia found that under California law the address of record for a physician is a public record. He also ruled that "The Medical Board of California does not violate the provisions of the California Public Records Act nor of the Information Practices Act by publishing the address of record of California-licensed physicians on the Medical Board's Internet website."

Disclosure of Physician Information

For many years, the Medical Board has provided information about its licensees to the public on request, including name, address of record, medical school graduated from and year of graduation, date first licensed in California, current status of license, and any public information about disciplinary activity against the physician. This information was available by writing or calling the Board. In addition, for a small processing fee, consumers could receive copies of legal documents including formal accusations and disciplinary decisions.

In the Spring of 1997, the Board established an Internet homepage which contains a variety of information about its responsibilities and activities. Shortly thereafter, the national organization of executive directors of state medical boards, known as Administrators in Medicine (AIM), developed a website to provide public record information about physicians. As a member of AIM, the Medical Board saw the website as an excellent resource for giving consumers quick access to public information about California physicians.

Internet Access Delayed to Permit Address Changes

Expressing concern that some physicians, including those who work in prisons, jails or mental hospitals, could be at risk if their address of record was a residence rather than a place of business, some physicians requested that the Board reconsider its making this information available. Recognizing the validity of this concern, the Board voluntarily blocked the street address line on the Internet records. However, it remained the opinion of the Board legal counsel that the address of record is public information under the Public Records Act (Act).

To accommodate the real interests of licensed physicians, and meet its legal responsibility to provide information to the public, on July 10, 1997, the Board sent a letter to every physician with a California license, informing them that information, including their address of record, would be available via the Internet beginning September 1, 1997. Enclosed with the letter was a form for the physician to

request a change in his or her address of record. It was suggested that physicians could provide their work address, a post office box or any other address where they could receive mail. In the following months, more than 41,000 physicians either mailed or faxed new addresses to the Board, and these were entered into the licensure records.

Nevertheless, on September 25, 1997, the Union of American Physicians and Dentists (UAPD) sued the Medical Board to force a permanent stop to the disclosure of physician addresses of record. There was no dispute of fact before the court, as both the UAPD and the Medical Board agreed to the factual situation. Rather, the Court was asked to rule on the appropriateness of releasing the information under the Act. As stated above, the Court ruled that such records are public under the Act.

With this ruling, complete addresses of record will be put back online on June 1, 1998. The Board's website is: www.medbd.ca.gov.

Since a physician's address of record is the address to which the Board sends official correspondence, including license renewal forms, it is important to maintain an accurate and current address of record by mailing or faxing (916-263-2487) a signed notice of change in address to the Board.

Corporate Practice Update

As part of its current review of the prohibition against the corporate practice of medicine, the Medical Board has convened state-wide meetings of interested parties to consider the effect of the current law in relation to enforcement, including fee-splitting issues, and the unlicensed practice of medicine by corporate entities and management service organizations.

The Board's Committee on the Corporate Practice of Medicine reviewed a draft, "Perspective on the Prohibition Against the Corporate Practice of Medicine," at its meeting on March 26, and will present this to the full Board at its May 9 meeting in Sacramento. All interested parties are invited to attend.

For more information call Linda Whitney at (916) 263-2389. Future issues of the *Action Report* will contain information concerning the "Perspective" and the Board's efforts to implement its provisions.

Career Guidance for International Medical Graduates

Over the years, graduates of international medical schools have expressed frustration about the process of matching to postgraduate training programs in the United States. When the Division of Licensing members have questioned the complainants, they notice that some of the frustration expressed by international graduates stems from the difficulties they experienced in learning about the process of locating and securing a postgraduate training program in the United States. From overseas, it can be a daunting task to determine which agency to contact first and then understand the roles that the ECFMG, the National Resident Matching Program (NRMP) and the state medical boards play in the match process.

The Division of Licensing has explored ways of closing the information gap. In researching the resources that are available to physicians who are seeking postgraduate training opportunities in the United States, the Division discovered that information about the match process is readily available overseas and in the U.S. The ECFMG distributes its "Information Bulletin" to U.S. embassies and consulates worldwide. The "Information Bulletin" describes

the match process and directs the physician to the NRMP. In addition, for those with access to the Internet, the ECFMG and the agencies involved in physician testing, postgraduate training and licensure have websites on the Internet that provide a wealth of information and advice. The Division has prepared a list of these helpful resources, with their website addresses. The list is available at the Medical Board's website (www.medbd.ca.gov) or by writing to the Board's Licensing Program or faxing a request to (916) 263-2487.

As physicians practicing in California, *Action Report* readers are often the first contact for foreign-trained physicians or their friends or family members who are seeking assistance in locating available postgraduate training programs. In addition to providing advice based on your own experience, please consider directing them to the Board's Licensing Program to request a copy of the postgraduate training information list. To explore the resources available on the Internet yourself, begin with the ECFMG's home page located at: www.ecfm.org.

Final Recommendations (Continued from p. 1)

Dispute Resolution

Everyone recognizes the frightening situation where a patient is denied the often life-saving treatment recommended by his or her physician and has no speedy, objective recourse to appeal. Beyond the well-publicized cases, this problem is a daily occurrence for physicians and patients. The Task Force addressed this issue by recommending that voluntary standards of fair and efficient dispute resolution be adopted by plans, irrespective of ERISA preemptions. It was encouraged that standards eventually be established even for experimental treatments under the leadership of the new state entity proposed earlier.

Preauthorization and Utilization Review

Again, this is an area where patient health can be dependent on the physician's ability to efficiently carry out a treatment plan based on the patient's condition. The Task Force recommended that plans should develop alternatives to prior authorization based on professional consensus, known patterns of care and outcome or an established history of expertise by the physician. If such alternatives are not developed by 2000, then the state regulator should consider

requiring their development as a condition of plan licensure. The Task Force recommended that the preauthorization step as currently utilized be altogether eliminated for patients with catastrophic conditions being treated by plan-credentialed providers. If successfully implemented, this recommendation might restore the day in which patients could expect to receive timely, effective medical care for a number of conditions which currently result in a lengthy review and approval process when required by the plan.

The above offers only a few, brief highlights of the results of the Task Force's deliberations. As any document seeking to guide public policy in a democracy, it contains less than many of us wanted and more than many of us expected. However, it provides a starting point, and a very sound one, for the continuing debate about how the patient-physician relationship is restored at the center of the health care delivery equation. This is an issue where the Medical Board of California and its licensees have a shared interest—providing the best medical care possible to California's patient population. I look forward to future communications with you concerning these issues as they move into the legislative arena.

Health News

National Birth Defects Study Targets California's Central Valley Mothers

(Your patients may be invited to participate.)

The California Birth Defects Monitoring Program* is one of eight Centers for Birth Defects Research and Prevention collaborating in the National Birth Defects Prevention Study. This nationwide effort is sponsored by the Centers for Disease Control and Prevention.

This will be the largest epidemiologic study designed to identify birth defects risks and preventive factors. This five-year study began in December 1997 and includes births from October 1, 1997, to September 30, 2001. The first analysis will be published in 2002.

The case-control study focuses on 29 structural birth defects involving every organ system. More than 16,000 women will be interviewed nationally. Other participating states include: Iowa, Texas, Arkansas, Georgia, Massachusetts, New York and New Jersey.

The study will include 2,400 mothers living in San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare and Kern Counties. The study participants will be identified through the California Birth Defects Monitoring Program's registry. *It is not necessary for physicians to report cases to the Program.*

Women will receive a letter describing the study and inviting them to participate. If the mother agrees, a trained interviewer will conduct a one-hour telephone interview on a wide range of topics, including pregnancy history, medications, diet, work, hobbies, and lifestyle.

Physicians may be contacted by mothers selected for interview regarding participation in this epidemiologic study. If a doctor has questions or wants copies of the participant contact materials, please call:

Jackie Wynne, Community Liaison, California Birth Defects Monitoring Program/March of Dimes, 3031 F Street, Suite 200, Sacramento, CA 95816-3844, (916) 443-0816, ext. 12.

**The California Birth Defects Monitoring Program is a public health program devoted to finding causes of birth defects. The Program is funded through the California Department of Health Services and jointly operated with the March of Dimes Birth Defects Foundation.*

Birth Defects Facts

- Birth defects are the leading cause of infant mortality—1 in 3 babies who dies has a birth defect.
- 2-3% of babies are born with a medically significant birth defect—more than 12,500 babies in California every year.
- The infants with birth defects include more than
 - 2,700 with heart defects
 - 900 with cleft lip/cleft palate
 - 700 with Down syndrome
 - 350 with spina bifida and other neural tube defects
 - 250 with missing or malformed limbs
- All mothers are at risk of having a baby with a birth defect—regardless of age, race, income or residence.
- The causes of most birth defects are unknown—research can identify preventive and risk factors.

Physician Obligations Regarding Death Certification

The Medical Board of California has highlighted the issue of death certificate reporting responsibilities on numerous occasions over the years, most recently in its October 1994 *Action Report* article "The Death Certificate: A Primer for Physicians" by George R. Flores, M.D., M.P.H., Sonoma County Public Health Officer and Assistant Clinical Professor of Family and Community Medicine, U.C. San Francisco. This article will serve as an opportunity to provide additional information to physicians on this critical issue and to stress the importance of timely reporting.

The Medical Board has heard from a variety of sources about death certificates being completed inadequately or in an untimely manner. Any of us who has lost a loved one can fully understand the difficulty for families in the delay of any information regarding death certification. Some have suggested new legislation to put additional mandates on this system of reporting deaths. We believe that there are adequate laws on record and complaint processes set up for times when those laws are not followed. The following questions and answers are based on current California law.

What is the importance of the death certificate?

The death certificate is a legal document as well as a public document. Insurers, tax officials, the family of the deceased, and others rely on its information. Its demographic and cause of death information is used to compile a body of epidemiologic knowledge, used by scientists and policy makers to initiate research or to fund health and social programs. Disposition of remains cannot occur until the death certificate has been filed.

What is the physician's responsibility in completing a death certificate?

In California, a licensed physician is legally obligated *within 15 hours* of the natural death of his or her patient to complete, sign, and attest to the medical and health data and the date and time of death on the death certificate. The physician shall specifically indicate the existence of any cancer of which the physician has actual knowledge. During this same period, the physician must deposit the certificate at the place of death (e.g., the hospital), deliver it to the attending funeral director at his or her place of business, or arrange with the funeral director for pick up at the physician's office (Health and Safety Code sections 102800 and 102825).

When does the physician report the death to the county coroner?

Before completing the death certificate, under any of the following circumstances the physician must report the death to the county coroner:

- death occurs without medical attendance;
- deaths where the deceased has not been attended by a physician in the 20 days before death;
- when the attending physician and surgeon or the physician assistant is unable to state the cause of death;
- when suicide is suspected;
- following an injury or an accident (old or new);
- under circumstances that afford a reasonable ground to suspect that the death was caused by the criminal act of another;
- deaths by starvation, acute alcoholism, drug addiction, aspiration, or sudden infant death syndrome;
- deaths known or suspected due to a contagious disease constituting a public hazard;
- deaths from occupational diseases or hazards

If after the coroner conducts an inquiry into the cause of death, and determines that the physician of record has sufficient knowledge to state the cause of death as occurring under natural circumstances, the coroner may authorize the physician to sign the certificate of death.

Does the physician signing the certificate have to be the attending physician (the physician who last saw the patient alive in a professional capacity)?

Although this is preferred, when the attending physician is unavailable within the specified time after death, a physician may designate another physician who has access to the physician's records to act as his or her agent for the purpose of certification of death, provided that the designee acts in consultation with the physician.

What about certificates of fetal death?

The physician in attendance at the delivery of a fetus beyond the 20th week of uterogestation must, within 15 hours after the delivery, state on the certificate of fetal death: date and time of

(Continued on p. 7)

Death Certification (Continued from p. 6)

fetal death or delivery; direct causes of the fetal death; condition, if any, which gave rise to these causes; other medical and health data required on the certificate; and physician's signature. If the fetal demise is the result of maternal injury or drug usage, the county coroner should be notified.

As in the case of death certificates generally, the physician must deposit the certificate of fetal death at the place of death (e.g., the hospital), or deliver it to the attending funeral director at his or her place of business or arrange with the funeral director for pickup at the physician's office (Health and Safety Code section 102975).

Are there penalties for failure to comply with any of these reporting requirements?

Yes, the Medical Board may issue citations and/or fines for violation of the following provisions of the Health and Safety Codes related to death certification:

Section 102795—Medical and Health section data; completion and attestation

- "The medical and health section data and the time of death shall be completed and attested to by the physician and surgeon last in attendance, or in the case of a patient in a skilled nursing or intermediate care facility at the time of death, by the physician and surgeon last in attendance or by a licensed physician assistant under the supervision of the physician and surgeon last in attendance if the physician and surgeon or licensed physician assistant is legally authorized to certify and attest to these facts, and if the physician assistant has visited the patient within 72 hours of the patient's death. In the event the licensed physician assistant certifies the medical and health section data and the time of death, then the physician assistant shall also provide on the document the name of the last attending physician and surgeon and provide the coroner with a copy of the certificate of death. However, the medical health section data and the time of death shall be completed and attested to by the coroner in those cases in which he or she is required to complete the medical and health section data and certify and attest to these facts."

Section 102800—Completion of certificate; time; delivery

- "The medical and health section data and the physician's or coroner's certification shall be completed by the attending physician within 15 hours after the death, or by the coroner within three days after examination of the body.

The physician shall within 15 hours after the death deposit the certificate at the place of death, or deliver it to the attending funeral director at his or her place of business or at the office of the physician."

Practical Highlights

- You, or the designated physician covering your practice, must sign a completed death certificate within 15 hours of death.
- If you will be unavailable to sign the death certificate, you may designate one or more physicians/surgeons who have access to your records to act as your agent for signing the death certificate provided that person so designated acts in consultation with you.
- Usually the family's funeral director will present you with a death certificate form or a worksheet. After you have verified the decedent's information, you are required to complete the date and time of death, the cause of death, existence of cancer, other contributing factors or causes, and sign and date the form. If the form is a worksheet, the funeral director will type the information onto the official death certificate and return it to the physician for final review and signature. The funeral director will file the death certificate with the local office of vital statistics.
- **THE PHYSICIAN MUST NEVER SIGN A BLANK DEATH CERTIFICATE.**
- Whenever presented with a death certificate by a funeral director, **GIVE IT YOUR PROMPT ATTENTION.** Instruct your office staff to do the same.
- If you are covering the patients of another physician, inquire about patients for whom death from natural causes may be expected, what the principal etiologies for death would be, and what arrangements have been made for handling the death certificate.

Section 103785—Failure to fill out and deliver certificate

- "Every person who is required to fill out a certificate of birth, fetal death, death, or registry of marriage and register it with the local registrar, or deliver it, upon request, to any person charged with the duty of registering it, and who fails, neglects, or refuses to perform such duty in the manner required by this part is guilty of a misdemeanor."

Should you have additional questions, please contact the medical examiner in your county coroner's office, the Registrar of Vital Statistics in your county (usually the county Public Health Department), or the Department of Health Services' Office of Vital Records and Statistics, (916) 445-2684. Also, a video, "The Physician's Guide to Proper Completion of the Certificate of Death," is available for viewing from local funeral directors and county registrars. It gives case examples and makes important points worth noting prior to completion of these forms.

Health News

New “California Confidential Morbidity Report” (CMR) Form*

The California Department of Health Services and local city and county public health agencies have introduced the new Confidential Morbidity Report (CMR) form. The new CMR form was developed to facilitate and improve disease reporting in California. Conditions that are reportable by law should be reported to the local health department on the new CMR form.

This new CMR form on page 9 is replacing the old beige CMR cards which will no longer be supplied by the Department of Health Services. The new CMR form has many advantages over the old CMR cards:

1. The form is larger, faxable, and is provided by your local health department with a fax coversheet and the agency’s dedicated fax number.
2. A listing of legally reportable conditions under Title 17, California Code of Regulations, is printed on the back side of the new CMR form in addition to any locally reportable diseases.
3. A box containing the local health department’s address and fax number to which completed CMR forms should be forwarded.

The new CMR form should simplify the physician’s responsibility to notify the local health department when a

patient has a reportable condition which is diagnosed or suspected. It is important that physicians and other health care providers report these conditions to the county health department where the patient resides so that appropriate follow-up can occur within that jurisdiction.

Reporting to public health is crucial for disease surveillance, detection of outbreaks, and for an appropriate public health response. Disease reporting is also a legal requirement; the Medical Board of California has cite-and-fine authority for failure to notify the local health department of reportable conditions.

The recent updates to the CMR form will improve disease reporting and the ability to follow and respond to disease issues within the community. To obtain copies of this new CMR form, or should you have any questions about the form or disease reporting, please contact your local health department.

** Please note that we are publishing only the front portion of this new CMR form. The copy you will receive upon ordering these will list on the reverse side the Title 17, California Code of Regulations, section 2500, Reportable Diseases and Conditions, which we recently published in the April 1997, Volume 61, Action Report.*

Medical Board Hires New Staff Counsel

The Medical Board has hired a new attorney, effective April 1, 1998. John M. Puente is the Board’s new Staff Counsel. This position provides legal services support to the Medical Board, the Executive Director, Medical Board staff and others in areas such as physician discipline, legislation and litigation.

Mr. Puente comes to the Medical Board from the California Department of Social Services (CDSS), where he served as Staff Counsel since 1997. Among other

responsibilities at CDSS, he researched legal issues in adoptions, foster care, child abuse and neglect; drafted legislation, statutes, regulations, issue memoranda, bill analyses and settlements; and served as staff to the Judicial Council of California, Special Task Force on Court/Community Outreach. He also served as counsel to the Department’s Health Policy for Foster Children.

Mr. Puente served as a Special Assistant to Eloise Anderson, Director, CDSS, in his capacity as an Executive Fellow

from 1996-97. His responsibilities included policy development in many programs from Adoption to Welfare Reform, as well as assisting in the resolution of several high profile lawsuits filed against the Department. While an Executive Fellow, he also was a legal advisor and assisted the California State Children’s Trust Fund and helped coordinate the 1997 “March for Children” and “Run for Their Lives” charity events benefiting the Trust Fund.

CONFIDENTIAL MORBIDITY REPORT

NOTE: For STD, Hepatitis, or TB, complete appropriate section below. Special reporting requirements and reportable diseases on back.

DISEASE BEING REPORTED: _____																																																										
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DISCIPLINARY ACTIONS: NOVEMBER 1, 1997 TO JANUARY 31, 1998

Physicians and Surgeons

ALLEN, EVERETT DOUGLAS, M.D. (G54881)
Sausalito, CA

B&P Code §§2238, 2239(a). Stipulated Decision. Self use/abuse of cocaine. Revoked, stayed, 5 years probation with terms and conditions. December 26, 1997

BAHOU, KAMIL EMIL, M.D. (A29428)
Pasadena, CA

B&P Code §§2234(a), 2239. Violated terms and conditions of Board probation. Revoked. December 2, 1997

BERNSTEIN, JOSEPH MAYER, M.D. (G31710)
Whittier, CA

B&P Code §2234(c). Stipulated Decision. Failed to disclose to 3 patients the potential risks and complications of performing a blepharoplasty. Public Letter of Reprimand. November 20, 1997

BOTNIK, EDWARD L., M.D. (C26065)
Sun Lakes, AZ

B&P Code §141(a). Stipulated Decision. Disciplined by Arizona for ordering controlled substances that were sent to his home for his own use. Public Letter of Reprimand. January 8, 1998

CARTER, HERBERT EUGENE, M.D. (C43145)
San Diego, CA

B&P Code §§141(a), 2234, 2305. Disciplined by Arizona for negligent treatment of 6 patients under his care for pain

management and outpatient anesthesia. In his negligent treatment of these 6 patients he failed to maintain adequate medical records, prescribed and administered controlled substances for other than therapeutic purposes, provided treatment that was or might be harmful or dangerous to the health and charged for services not rendered. Revoked. November 13, 1997

CHETKOWSKI, RYSZARD, M.D. (G47258)
Berkeley, CA

B&P Code §2233. Stipulated Decision. No admissions but charged with allegations concerning the performance of pelvic examinations and infertility procedures in his practice. Public Letter of Reprimand. May 16, 1997

CLENDENIN, JOSEPH GRIER, M.D. (C32609)
Santa Rosa, CA

B&P Code §§2234(e), 2262. Stipulated Decision. Altered a patient's medical records with fraudulent intent. 1 year suspension, stayed, 3 years probation with terms and conditions. November 20, 1997

DANIELS, TONI D., M.D. (A34345)
Los Angeles, CA

B&P Code §§822, 2234. Mental impairment affecting ability to practice medicine safely and failed to appear for an oral/

Explanation of Disciplinary Language and Actions

"Effective date of Decision"— Example: "December 29, 1997" at the bottom of the summary means the date the disciplinary decision goes into operation.

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

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

"Judicial review being pursued"— The disciplinary decision is being challenged through the court system—Superior Court, maybe Court of Appeal, maybe State Supreme Court. The discipline is currently in effect.

"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.

"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 a community facility.

"Public Letter of Reprimand"— A lesser form of discipline that can be negotiated for minor violations before the filing of formal charges (accusations). The licensee is disciplined in the form of a public letter.

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

"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.

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

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

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

"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).

clinical which she had previously agreed to take. Revoked, stayed, 5 years probation with terms and conditions. November 12, 1997

DARROW, JOHN CROSBY, M.D. (G33544)
San Francisco, CA

B&P Code §§141(a), 2234. Disciplined by New York for 7 convictions of driving under the influence of alcohol or driving while impaired. Revoked. November 14, 1997

DELCARMEN, GLENN RICKY, M.D. (G64209)
La Jolla, CA

B&P Code §2234(b)(c)(d). Stipulated Decision. Gross negligence, incompetence and repeated negligent acts in his care and treatment of a 71 year-old patient with a complaint of persistent abdominal pain. Revoked, stayed, 3 years probation with terms and conditions. November 3, 1997

DELONG, KENT ALLEN, M.D. (G42877)
Redlands, CA

B&P Code §4077. Stipulated Decision. Dispensed improperly labeled controlled substances. Revoked, stayed, 5 years probation with terms and conditions. November 28, 1997

DOYLE, JOHN MICHAEL, M.D. (G73367)
Glendale, CA

B&P Code §§490, 2234(f), 2236, 2239. Stipulated Decision. Twice convicted of driving while under the influence of alcohol. Revoked, stayed, 3 years probation with terms and conditions. December 1, 1997

DURAIRAJ, SADAYAPPA K., M.D. (A26651)
Flintridge, CA

B&P Code §2234. Stipulated Decision. Failed to document in a patient's death certificate that the insertion of a Swan-Ganz Catheter, subsequent tension pneumothorax and subcutaneous emphysema were contributing factors to the patient's death. Public Letter of Reprimand. December 15, 1997

ELGABRI, TAREK HASSANEIN, M.D. (A41594)
Warwick, RI

B&P Code §141(a). Disciplined by Rhode Island for having sexual relations with 3 patients. Revoked. January 2, 1998

GOLDBERG, STEVEN MARK, M.D. (G31613)
Laguna Niguel, CA

B&P Code §2234. Violated terms and conditions of Board probation. Revoked. January 21, 1998

GRANT, ROBERT A., M.D. (C19920)
Canoga Park, CA

B&P Code §2234(d). Stipulated Decision. Inadequate

management of wrist surgery of a patient both pre and post-operative. Public Reprimand. November 11, 1996

HARRISON, MARK L., M.D. (C42910)
Key Biscayne, FL

B&P Code §§141(a), 2234. Stipulated Decision. Disciplined by Texas for inadequate supervision of medical activities and for aiding and abetting the unlicensed practice of medicine. Public Letter of Reprimand. January 13, 1998

HOO, ROBERT KEN, M.D. (G78736)
Garden Grove, CA

B&P Code §2234(b)(d). Committed acts of gross negligence and incompetence while administering anesthesia to a patient undergoing several cosmetic surgery procedures by his failure to monitor the patient's fluids, his failure over the course of several hours to diagnose the patient's declining vital signs and call a halt to the surgery to evaluate the patient, and his failure to call for a hospital transfer even when the patient was in obvious distress. Revoked. November 26, 1997

HURD, STEVEN MORRIS, M.D. (G41187)
Tiburon, CA

B&P Code §§2234, 2234(a)(e)(f), 2261, 2271, 2274. Stipulated Decision. Made false certifications of his orthopedic credentials to the Department of Industrial Relations and misrepresented his orthopedic and chiropractic qualifications to a patient and during a deposition. Revoked, stayed, 4 years probation with terms and conditions. December 15, 1997

HOOPER, GREGORY FITZGERALD, M.D. (G68160)
Sunnyvale, CA

B&P Code §2234(c). Engaged in acts of repeated negligence for failing to chart the medical visits of several patients and for instituting the Danish study concept without permission or knowledge of the hospital. Revoked, stayed, 5 years probation with terms and conditions. November 20, 1997

HUANG, HARVEY MING, M.D. (A31503)
Coalinga, CA

B&P Code §§2234, 2234(b)(c)(d), 2242(a). Prescribed Nubain and Phenergan to a patient before undertaking any examination and without indication the patient was in great distress, and departed from the standard of care by performing an inappropriate examination of a female patient based on the complaints presented. Revoked, stayed, 5 years probation with terms and conditions. January 5, 1998. Judicial review being pursued.

JANI, SANATKUMAR MANEKLAL, M.D. (A33763)
Westminster, MD

B&P Code §141(a). Disciplined by Maryland for repeated failure to manage anesthesia competently and repeated charting deficiencies. Revoked. December 18, 1997

JOSEF, AVELINO SAMSON, M.D. (A34659)
Long Beach, CA

B&P Code §2234. Violated terms and conditions of Board probation. Revoked. December 15, 1997

KITZMAN, MARK MICHAEL, M.D. (G32361)
Lake Oswego, OR

B&P Code §§141(a), 2234, 2305. Disciplined by Oregon for sexually abusing minor children, including patients. Revoked, however, revocation is stayed for 1 year. If license in Oregon is restored within that year, he will be placed on 10 years probation with terms and conditions. If Oregon license is not restored within 1 year then the stay is vacated and license is revoked. License is suspended during the 1 year stay. January 2, 1998

KLUSSMAN, RICHARD MANSFIELD, M.D. (A26541)
Malibu, CA

B&P Code §§2234, 2234(e), 2236, 2238, 2239. Self-use of controlled substance, Fentanyl; made a false stolen vehicle report to the CHP; felony conviction for conspiracy to commit a crime to wit: obstruction of a criminal investigation persuading or attempting to persuade witnesses to give false information to officers investigating a hit-and-run accident in which he was involved; criminal conviction for driving under the influence of alcohol or drugs; and engaged in the practice of medicine while his license was suspended. Revoked. January 16, 1998

KUO, GEORGE Q., M.D. (A50218)
New York, NY

B&P Code §141(a). Stipulated Decision. Disciplined by New York for inadequate record keeping. Public Reprimand. January 29, 1998

LEWY, ROBERT IRA, M.D. (G30070)
Houston, TX

B&P Code §§141(a), 2234. Stipulated Decision. Disciplined by Texas for issuing a press release to prospective patients that was confusing and misleading, and for exclusion from the medical staff of a hospital for inadequate medical record keeping. Public Letter of Reprimand. January 14, 1998

LLOYD, STANLEY J., M.D. (G1243)
La Jolla, CA

B&P Code §§2234, 2234(b). Stipulated Decision. Failed to recognize the appearance of cells suggestive of malignancy on pap smear slides. Revoked, stayed, 3 years probation with terms and conditions. November 6, 1997

MABATID, HEIDI FLORES, M.D. (A38090)
Penn Valley, CA

B&P Code §141(a). Disciplined by New York for conviction of violations of the Uniform Code of Military Justice and unprofessional conduct. While in the United States Air Force she willfully and with intent to deceive, falsely signed a basic allowance for quarters and cost of living allowance recertification listing her mother as a dependent when in fact her mother was deceased. Revoked. November 6, 1997

MATORY, WILLIAM EARLE, Jr., M.D. (C39810)
Irvine, CA

B&P Code §2234(b)(d). Committed acts of gross negligence and incompetence in his care and treatment of a patient undergoing several cosmetic surgery procedures by his failure to diagnose and evaluate the patient's condition during and after these surgical procedures, failure to request emergency transfer and paramedic assistance, and failure to admit the patient to the hospital immediately. Revoked. November 26, 1997. Judicial review being pursued.

METZNER, RICHARD JOEL, M.D. (G16504)
Los Angeles, CA

B&P Code §141(a). Stipulated Decision. Disciplined by Arizona for treating and prescribing to 3 patients before completing the licensing process in that state. Public Letter of Reprimand. December 23, 1997

MONSHAW, ROBERT ALLEN, M.D. (C42046)
Blue Bell, PA

B&P Code §141(a). Disciplined by New York for practicing with negligence and incompetence on more than one occasion, gross incompetence, fraud and failure to maintain accurate records. Revoked, stayed, 5 years probation with terms and conditions. January 2, 1998

MOSS, ROBERT ALLAN, M.D. (G33764)
Fountain Valley, CA

B&P Code §§2234, 2234(a)(b), 2242. Stipulated Decision. No admissions but does not contest the allegations of his failure to adequately supervise a weight loss clinic, aiding and abetting

the unlicensed practice of medicine and allowing controlled substances to be unlawfully dispensed to patients. Revoked, stayed, 3 years probation with terms and conditions. November 14, 1997

MYNKO, GREGORY SPENCER, M.D. (G74144)
Boardman, OH

B&P Code §141(a). Stipulation Decision. Disciplined by Ohio for use and abuse of alcohol and drugs. Revoked, stayed, 5 years probation with terms and conditions. November 14, 1997

NASSIF, JOHN MICHAEL, M.D. (A44454)
Battle Creek, MI

B&P Code §141(a). Stipulated Decision. Disciplined by Nebraska for ordering, using and dispensing controlled substances for other than medically accepted therapeutic purposes. Public Letter of Reprimand. December 29, 1997

NELSON, ROBERT G., M.D. (G58312)
Wildomar, CA

B&P Code §§2234, 2234(c). Stipulated Decision. Failed to properly supervise his physician assistants. Revoked, stayed, 3 years probation with terms and conditions. January 8, 1998

NEWPORT, ROBERT R., M.D. (A22211)
Los Angeles, CA

B&P Code §2242(a). Stipulated Decision. Prescribed a controlled substance, marijuana, to a patient without a good faith prior examination to determine any medical indication or contraindication. Revoked, stayed, 5 years probation with terms and conditions. November 3, 1997

NGUYEN, DUC QUI, M.D. (A42302)
Crescent City, CA

B&P Code §§725, 810, 2234(a)(b)(e), 2242. Stipulated Decision. Convicted of grand theft, and committed acts of insurance fraud, excessive prescribing, and unlawful prescribing of dangerous drugs. Revoked, stayed, 7 years probation with terms and conditions including 90 days actual suspension. January 14, 1998

OMBRES, SEVERN RICHARD, Jr., M.D. (A26789)
West Palm Beach, FL

B&P Code §§2234, 2305. Disciplined by Florida for implanting the wrong power intraocular lens into a patient's left eye during a corneal transplant and intraocular lens implant surgery. Public Reprimand. January 15, 1998

OSOVA, SUSAN LILLIAN, M.D. (G74655)
Ridgecrest, CA

B&P Code §§2234, 2305. Stipulated Decision. Mental impairment affecting ability to practice medicine safely. Revoked, stayed, 3 years probation with terms and conditions. January 20, 1998

RAMEY, JOHN ALLEN, M.D. (G12564)
La Jolla, CA

B&P Code §2234(b)(c). Gross negligence and repeated negligent acts in his care and treatment, including performing 2 surgeries without medical indication, of a patient suffering from headaches. Revoked, stayed, 2 years probation with terms and conditions. November 10, 1997. Judicial review being pursued.

RUDICK, DONALD HENRY, M.D. (G35200)
Pomona, CA

B&P Code §2234. Stipulated Decision. Admits the Board could present sufficient evidence to establish a case for unprofessional conduct based on his failure to diagnose a patient's ruptured appendix resulting in a delay in treatment, cardiac arrest due to the ruptured appendix and resulting spread of infection. Revoked, stayed, 5 years probation with terms and conditions including 90 days actual suspension. January 2, 1998

SALVADORE, JOSEPH M., M.D. (C15218)
San Jose, CA

B&P Code §§2238, 4232. Stipulated Decision. Failed to maintain complete and accurate controlled substance records and inventories, including initial and biennial inventories. Revoked, stayed, 3 years probation with terms and conditions. November 5, 1997

SANCHEZ, DANILO ABUD, M.D. (A40289)
Paramount, CA

B&P Code §§490, 2234(e), 2305. Felony criminal conviction for making false, fictitious or fraudulent claims and billing for services not rendered. Disciplined by Texas and New Mexico for acts related to his criminal conviction. Revoked. July 29, 1997

SHAHAL, IMAD MOHAMMED YO, M.D. (A36462)
Escondido, CA

B&P Code §2234. Sexual harassment of 3 women, non-patients, 2 were co-workers and 1 was an employee. Revoked, stayed, 2 years probation with terms and conditions including 30 days actual suspension. January 8, 1998. Judicial review being pursued.

SHAHID, SYED IQBAL HUSSA, M.D.

Lomita, CA

B&P Code §§726, 729, 2234, 2234(b)(e). Sexual exploitation and sexual misconduct with a patient. Revoked. January 29, 1998

SHUMAKER, SCOTT DANIEL, M.D. (GFE43821)

Layton, UT

B&P Code §141(a). Disciplined by the United States Air Force due to deficiencies in his ability to recognize and treat serious, life-threatening illnesses and to process diagnostic data. Revoked. December 26, 1997

STEVENS, ROSEMARY W., M.D. (G9211)

San Francisco, CA

B&P Code §2234. Stipulated Decision. Charged with inappropriate prescribing of controlled substances to 2 patients. Admits the Board jurisdiction to impose discipline for unprofessional conduct. Revoked, stayed, 4 years probation with terms and conditions. November 17, 1997

THORNTON, HOWARD ALLEN, M.D. (G17377)

San Francisco, CA

B&P Code §2234(c). Stipulated Decision. Recordkeeping via his computerized system of recording information was inadequate, in that it did not include the pertinent information necessary for an objective understanding or determination of the patients' course or treatment during that period of time; and, failed to adequately ensure that the residential care facilities fully informed the patients or their duly appointed representatives or conservators, of the nature and purpose of his periodic visits. Revoked, stayed, 5 years probation with terms and conditions. December 15, 1997

TRUONG, DANH C., M.D. (A42494)

Garden Grove, CA

B&P Code §2236. Felony conviction for insurance fraud and conspiracy to commit insurance fraud. Involved in staging auto accidents. Revoked. January 2, 1998

VANDERSTUYF, JAMES GENE, M.D. (G47380)

Huntington Beach, CA

B&P Code §§2234, 2236, 2237, 2238. Felony criminal conviction for possession of controlled substances, methamphetamine, heroin and cocaine. Revoked. January 19, 1998

VASANT, KRISHNA K., M.D. (A35059)

Temecula, CA

B&P Code §725. Stipulated Decision. Clearly excessive

treatment of a patient in that tests were ordered without medical indication for such tests. Revoked, stayed, 2 years probation with terms and conditions. January 12, 1998

ZAMANIAN, ALEXANDER IRAJ, M.D. (A42243)

East Irvine, CA

B&P Code §§490, 2234(b)(e)(f), 2236(a), 2261. Stipulated Decision. Misdemeanor criminal conviction for violating section 32 of the Penal Code, aiding and abetting the commission of a felony by condoning the performance of surgery by his non-licensed assistant. Revoked, stayed, 2 years probation with terms and conditions. November 24, 1997

DOCTOR OF PODIATRIC MEDICINE

RHODEN, VINCENT G., D.P.M. (E1190)

Grass Valley, CA

B&P Code §§726, 2234, 2234(b)(e). Practiced outside the scope of his license and sexual misconduct with a patient. Revoked. January 14, 1998. Judicial review being pursued.

PHYSICIAN ASSISTANTS

AUSTIN, KIRK JAY, P.A. (PA10387)

Santa Cruz, CA

B&P Code §§2234(e), 2236(a), 2238, 3527(a). Stipulated Decision. Misdemeanor criminal conviction for theft by means of fraudulent or unauthorized use of a debit or credit card; misdemeanor criminal conviction for writing a prescription for Vicodin, using his employer's prescription for an individual who was not his employer's patient; and made false representations that he had seen patients in a nursing home which were not, in fact, made. Revoked, stayed, 5 years probation with terms and conditions including 30 days actual suspension. December 24, 1997

GRANTHAM, ROBERT EDWIN, P.A. (PA11140)

Bakersfield, CA

B&P Code §§2234, 2238, 2239, 3527. Stipulated Decision. Obtained Vicodin, a controlled substance, for self-use; committed an act involving dishonesty in that he called in Vicodin to a pharmacy for a patient, an employee of the clinic he worked at, with the intent of picking up the Vicodin for his own use. Revoked, stayed, 5 years probation with terms and conditions. December 15, 1997

**SURRENDER OF LICENSE
WHILE CHARGES PENDING**

PHYSICIAN AND SURGEON

BISCEVIC, KAMILO R., M.D. (A21966)

Vacaville, CA

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