

Action Report

Medical Board of California

January 1999
Vol. 68
A Quarterly
Publication

www.medbd.ca.gov

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Medical Board of California Meeting Dates/Locations

1999

Feb. 4 - 6	Orange County
May 6 - 8	Sacramento
July 29 - 31	S.F. Bay Area
Nov. 4 - 6	San Diego

All meetings are open
to the public.

Legislative Update

The following legislation, which may impact physicians licensed in California, has been chaptered into law and took effect on January 1, 1999 (bills with an urgency clause take effect upon enactment).

AB 7 (Brown, Chapter 787, Statutes of 1998), requires that health care service plans that provide coverage for mastectomies and lymph node dissections allow the hospital stay associated with these procedures to be determined by the physician and patient and consistent with sound clinical principles and processes. The health care service plans are required to cover the cost of prosthetic devices or reconstructive surgery and cover the cost of complications resulting from a mastectomy.

AB 12 (Davis, Chapter 22, Statutes of 1998), the Legislature declared via this bill that a unique relationship exists between a woman and her OB/GYN and that relationship warrants direct access to care. This bill requires that health care service plan contracts issued, amended, renewed or delivered in California must provide for direct access of enrollees to participating obstetricians/gynecologists for their obstetrical and gynecological care, without referral from another physician or prior approval from the plan. This provision also applies to participating family practice physicians who provide OB/GYN services. Plans may impose reasonable conditions of participation on physicians so long as they are not more restrictive than conditions imposed on other participating physicians. Plans may impose reasonable requirements for the OB/GYN or FPP to communicate with the enrollee's primary care physician regarding the enrollee's condition, treatment, or follow-up care.

AB 123 (Wildman, Chapter 553, urgency statute—takes effect immediately, Statutes of 1998) as of September 18, 1998, revises the Business and Professions Codes relating to respiratory care providers. Included in the changes are inspections or reports concerning the employment of staff providing respiratory treatment or services including the inspection of records. Continuing education for license renewal shall not exceed 30 hours for the two-year renewal period. The suspension or revocation of, or

the imposition of probationary conditions upon, a license shall include incompetence in the licensee's practice and a pattern of substandard care.

AB 162 (Alby, Chapter 647, Statutes of 1998), states the Legislature's intent to streamline regulation of physicians by coordinating overlapping regulatory functions. Specifically, the law requires the Department of Corporations and the Department of Health Services to coordinate their audits of physician offices.

AB 255 (Thomson, Chapter 8, Statutes of 1998), requires that all prescriptions for spectacle lenses include the following information: the dioptric power of the lens, the issue date and expiration date of the prescription, the name, address, license number and signature of the prescriber, and the name of the person to whom the prescription is issued. The expiration date of the prescription shall not be less than two years or greater than four years.

AB 607 (Scott, Chapter 23, Statutes of 1998), requires that health care service plans disclose specific information to the public, subscribers and enrollees. This bill expands the required disclosures to include a statement prominently displayed on the first page that:

- 1) the disclosure and evidence of coverage documents contain terms and conditions of coverage, and should be read carefully. If the evidence of coverage is not combined with the disclosure form, the disclosure must inform the reader where the evidence of coverage can be obtained prior to enrollment;
- 2) the plan's phone number(s) or information where the numbers can be found in the disclosure form; and
- 3) for individual and small group contracts, a Uniform Health Plan Benefits and Coverage Matrix which provides specified information in prescribed order, to facilitate comparison among health plans. The matrix shall include coverage, limitations, co-payments and other prescribed information. These changes do not apply to Medicare or Medi-Cal health care service plan contracts.

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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.
President of the Board*

Changes in the New Year

Happy New Year! 1999 brings a new Legislature and a new Governor; therefore, public policy proposals will be considered by a new set of decision-makers. The Medical Board will continue to be active on issues dealing with health care delivery, especially managed care, in its continuing role of consumer protection. As we are all aware, many proposed health care reforms have been blocked because of stalemates which arose among the many interested parties. The struggles which led to impasse have not gone away and we will see many of the same interests promoting the same positions in the new year. Nevertheless, with the new participants, there may well be a new sense of urgency regarding issues long debated but not acted upon. Let us hope that this energy is not squandered as both the patient community and the physician community have real interests to be served by the considered formulation of health care delivery policy and statute.

PACE Program

Board members and staff have been working with the University of California, San Diego School of Medicine and its Physician Assessment and Clinical Education (PACE) Program since its creation in 1997. The goal is to assist physicians in meeting requirements of continuing competence or remediation of identified deficiencies in practice skills. The PACE program offers a variety of educational programs including an assessment program, a physician prescribing course, clinical training programs and customized courses to meet training and legal requirements. Participation in the PACE program has become a term of probation in our Board's physician discipline when it is deemed appropriate in quality-of-care cases. It has exceeded our earlier expectations as we find it efficacious for use with more and more physicians. As a result, the program has grown in both size and in the scope of its training mission. I have appointed a committee to conduct a comprehensive

review, which will include the participation of one of our medical consultants, so that the Board may better understand PACE's appropriate use in the enforcement process. We want to be sure the program is fulfilling its original intention and is being applied evenly in cases where a physician's competence needs evaluation and enhancement, and possibly as a voluntary effort on behalf of physicians who feel the need for an educational "brush-up."

Reminder: Flu Shots

'Tis the season for flu shots for health care providers, the very young and the elderly, as well as other at-risk patients.

Farewell and Congratulations

The Medical Board recently lost a 38-year state employee to retirement. Neil Fippin was the Manager of the Board's Licensing Program, and a veteran staff member of the Department of Consumer Affairs, the state department of which the Medical Board is a part. This is a tremendous loss for the Board, California physicians, and the public. Because of his long experience in state government and his dedication, Neil was a fund of knowledge on the Administrative Procedures Act and the Business and Professions Code. I will miss working with him, as I always found him responsive as well as knowledgeable.

During Neil's tenure, the Division was successful in repealing the oral examination requirement for licensure and instituting alternative requirements to further the Board's consumer protection mandate. The Division also visited and evaluated many medical schools and disapproved a number which were found to have had substandard medical curricula which do not meet California's stringent requirements for licensure.

See you on the golf course, Neil!

Board Adopts the “Perspective to Provide Guidance on the Prohibition Against the Corporate Practice of Medicine”

At its November 7, 1998 meeting in San Diego, the Medical Board of California voted to adopt the “Perspective to Provide Guidance on the Prohibition Against the Corporate Practice of Medicine.” The Perspective, which follows this article, is another step in the direction of assisting physicians, their attorneys and the general public in understanding the scope of the corporate practice prohibition. Over the past two years, the Corporate Practice of Medicine Working Group, which consisted of representatives from all interested groups including physicians, attorneys and health care organizations, held several meetings around the state and solicited comments from the general public. The result of the meetings and comments is the following Perspective.

This Perspective is intended to provide guidance in understanding the intent of the law and some indications of situations which suggest when it might be violated. These factors are not intended to be all-inclusive, nor will they alone constitute a violation in all cases. Again, this Perspective is intended to provide guidance as to the circumstances which the Medical Board would find to raise concerns that the prohibition against the corporate practice of medicine is being violated. Finally, it must be remembered that the Knox-Keene Act exempts registered health care service plans (such as HMOs) from the prohibitions addressed here.

Please direct any questions to the Board’s legal counsel, in writing, at 1434 Howe Avenue, #100, Sacramento, CA 95825.

Medical Board of California’s Perspective to Provide Guidance on the Prohibition Against the Corporate Practice of Medicine

The Medical Practice Act, Business and Professions Code Section 2052, provides:

“Any person who practices or attempts to practice, or who holds himself or herself out as practicing... [medicine] without having at the time of so doing a valid, unrevoked, or unsuspended certificate... is guilty of a misdemeanor.”

Business and Professions Code Section 2400, within the Medical Practice Act, provides in pertinent part:

“Corporations and other artificial entities shall have no professional rights, privileges, or powers.”

The policy expressed in Business and Professions Code Section 2400 against the corporate practice of medicine is intended to prevent unlicensed persons from interfering with or influencing the physician’s professional judgment. The decisions described below are examples of some of the types of behaviors and subtle controls that the corporate practice doctrine is intended to prevent. From the Medical Board’s perspective, the following health care decisions should be made by a physician licensed in the State of California and would constitute the unlicensed practice of medicine if performed by an unlicensed person:

- Determining what diagnostic tests are appropriate for a particular condition.
- Determining the need for referrals to or consultation with another physician/specialist.
- Responsibility for the ultimate overall care of the patient, including treatment options available to the patient.
- Determining how many patients a physician must see in a given period of time or how many hours a physician must work.

Again, the above represents only those issues addressed by the board to date and is not intended to be all-inclusive.

In addition, from the Medical Board’s perspective, the following “business” or “management” decisions and activities resulting in control over the physician’s practice of medicine should be made by a physician licensed in the State of California and not by an unlicensed person or entity:

- Ownership is an indicator of control of a patient’s medical records, including determining the contents thereof, and should be retained by a California licensed physician.
- Selection (hiring/firing as it relates to clinical competency or proficiency) of professional, physician extender, and allied health staff.
- Set the parameters under which the physician will enter into contractual relationships with third-party payers.
- Decisions regarding coding and billing procedures for patient care services.
- Approval of the selection of medical equipment for the medical practice.

The types of decisions and activities described above cannot be delegated to any unlicensed person, including (for example) management service organizations. While a physician may consult with unlicensed persons in making the “business” or “management” decisions described above, the physician must retain the ultimate responsibility for, or approval of, those decisions.

Workers' Compensation Reports and Confidentiality of Medical Information

The Medical Board of California has become aware of concerns expressed by a number of physicians who file workers' compensation reports. These physicians fear that they could be subject to prosecution by the Board for violating the Confidentiality of Medical Information Act (CMIA) where the physician and patient disagree as to whether an injury is work related and where that patient asks the physician not to report to the employer that an injury is work related. It is the intent of this article to address this confusion which may exist concerning the filing of workers' compensation reports pursuant to the Labor and Civil Codes, and to clarify that it is not the position of the Board that physicians properly filing such reports violate the provision of the CMIA.

There may be several variables at issue leading to the patient's request not to file a report. Of course the physician will need to determine the degree to which they influence the encounter. For instance, the customary process of evaluating a workers' compensation claim is an interactive one involving the employer and employee, with the employee fully cognizant of the fact that medical information related to the injury in question will be released to the employer.

Where, however, a patient requests treatment from a physician inconsistent with the customary process, questions arise which cannot be easily answered. For instance, if a patient is diagnosed with a wrist injury and informs the physician that it may be related to an exercise the patient does, would the physician then be required to report to the employer? The answer is not clear. Most likely the patient is not then claiming workers' compensation and as such, no report may be required. However, where the patient is seeking workers' compensation, then the report which is filed under the California Labor Code must reflect the physician's accurate, professional findings. If the patient requests that the report be falsified to indicate that the injury occurred outside work, the physician has no responsibility to participate in such a misrepresentation and would not be in violation of the CMIA for filing a report of work-related injury contrary to the patient's request. Further, where the patient informs the physician that an injury is work related and that patient is seeking workers' compensation, then a report is most likely required and the physician in so providing does not violate the CMIA.

Military Physicians Practicing in California Care Facilities

The issue of military physicians practicing under the terms of federal law and cooperative agreements with community hospitals has been a topic of discussion before the Division of Licensing this year. The issue first came to the attention of Licensing Program staff from several branches of the military requesting a statement from the Medical Board which would endorse non-California licensed physicians practicing in community hospitals when that practice was limited to military staff and their dependents. In light of recent base closures, military treatment facilities have been closed and military beneficiaries have been sent to community hospitals.

The federal law which governs the activities of military physicians, Title 10, U.S.C., Section 1094, has over the years governed the activities of the military healthcare provider on military sites. It was originally enacted in 1985 and became effective in 1988. In 1988, the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative embarked on a five-year demonstration project with goals of: improving beneficiary access to care; maintaining the quality of care provided; and containing the growth of health care costs. In 1994, the Defense Authorization Act authorized the development of TRICARE, a managed care program. The Division of Licensing requested that a representative from the military provide background on the history of the change in federal law which allows for military doctors to provide care

in civilian settings; the manner in which their practice would be conducted; and the regulatory oversight to which they would be subject in the event of misadventure.

On November 6, 1998, Captain William Heroman, M.D., the Chief of Staff with the Office of the Assistant Secretary of the Defense, TRICARE Activity, spoke to Division of Licensing members about the change in federal law; the establishment of TRICARE; and the era of managed care in the military. His presentation covered the following areas of the Division's concerns: the medical services which are provided only to members of the military, their dependents, and beneficiaries.

TRICARE relies on a commercial contractor to develop and manage a private sector network of health care providers and services. This network is used when care is not readily available in the Military Treatment Facility. TRICARE offers three options for military beneficiaries: TRICARE Prime, which is an HMO type of plan where beneficiaries receive care at a Military Treatment Facility; TRICARE Extra, which is a preferred provider option where health care is delivered through a network of civilian health care providers who accept payments from CHAMPUS; and TRICARE Standard, which is a standard fee-for-service CHAMPUS program including deductibles and co-payments.

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Health News

Lead Exposure: A Hazard To Workers and Their Families

by Karen L. Hipkins, RN, NP-C, MPH

Occupational Lead Poisoning, Prevention Program

California Department of Health Services

January 1999

Following are excerpts from the Department of Health Services' Occupational Lead Poisoning Prevention Program's (OLPPP) medical guidelines, which were adapted for use by a wider audience and recently published in the American Association of Occupational Health Nurses Journal, July 1998, Vol. 46, No. 7, in an article titled, "Medical Surveillance of the Lead Exposed Worker: Current Guidelines."

Serious cases of workplace and "take home" lead poisoning continue to occur with surprising frequency. Most adults with elevated blood lead levels are exposed to lead in the workplace: lead is used in more than 100 industries in the United States. Additionally, lead poisoning rarely happens in isolation; frequently others in the identified person's work or home environment are found to have elevated blood levels. "Take home" lead exposure, resulting from lead particles brought home on a worker's clothes, shoes, or body, can also poison workers' household members. If undetected, lead poisoning can result in misdiagnosis and costly care. Workers, employers and medical care providers often are unaware that lead hazards exist. The box which is provided on this page contains some of the signs and symptoms which may cause the physician to consider the possibility of lead poisoning in patients.

While the typical blood lead level for the general population in the United States is less than 3 micrograms per deciliter, many lead-exposed workers have blood lead levels much higher than this. Under 40 micrograms per deciliter, once thought safe, now are considered hazardous as new information emerges about the toxicity of lead. Clinicians caring for lead-exposed workers and/or their families are urged to be informed about the health effects of lead, employer and physician responsibilities, and worker rights.

In its entirety, this article reviews the medical surveillance requirements of the federal OSHA lead standards, provides updated research information on the health effects of lead,

SIGNS AND SYMPTOMS ASSOCIATED WITH LEAD TOXICITY*

Mild Toxicity

mild fatigue or exhaustion
emotional lability, difficulty concentrating
sleep disturbances

Moderate Toxicity

headache
general fatigue or somnolence
muscular exhaustion, myalgia, arthralgia
tremor
nausea
diffuse abdominal pain
constipation or diarrhea
weight loss
decreased libido

Severe Toxicity

colic (intermittent, severe abdominal cramps)
peripheral neuropathy
convulsions
encephalopathy

*Reprinted from Hipkins, K.L., et al., *AAOHN*, 46:1998

and makes recommendations for implementing the lead standards and preventing occupational and take home lead poisoning. To request a copy, and/or to obtain a complete list of OLPPP's educational materials for health care professionals, employers, or workers, please call OLPPP's hotline at (510) 622-4332.

Chronic Fatigue Syndrome

A Mystery and an Albatross

NOTE: The Medical Board of California recently has been asked to provide information to physicians regarding the diagnosis and treatment of patients with Chronic Fatigue Syndrome (CFS). This request reflects the concern that there is little information widely available to the physician community and perhaps even less agreement on what constitutes CFS.

The Medical Board asked the California Department of Health Services to provide information which may be

helpful in this regard so that it could be provided to the physician community. The following material, developed by the Department of Health Services, supports the view that much is yet to be understood regarding CFS; however, it does provide some guidelines about which physicians should be aware and some references to additional information. The Medical Board will continue to work with the Department of Health Services and will provide additional information in these pages as more becomes available.

For The Physician: A MYSTERY

- ◆ persistent symptoms with no clear pathophysiological explanation
- ◆ a frustrated patient with disabling symptoms
- ◆ a diagnosis of exclusion
- ◆ there are no confirmatory laboratory tests
- ◆ however, laboratory tests must be performed to rule out other serious causes of persistent fatigue
- ◆ no definitive treatment is available
- ◆ recently, some evidence of a biological basis has been found

For The Patient: AN ALBATROSS AROUND THE NECK

- ◆ "I experience disabling symptoms for which the doctor can find no cause."
- ◆ "This is a very distressing and frustrating illness that goes on and on and on."
- ◆ "No curative treatment is available. I have no hope of a cure."
- ◆ "I feel impaired, yet guilty for not being able to do the daily chores I must do."
- ◆ "All the medications I have been given have never made the disease go away."
- ◆ "I avoid social interactions; I am embarrassed by my intellectual impairment."
- ◆ "Others think that my problems are mental; sometimes I wonder myself."

BEST APPROACH: Anthony L. Komaroff, M.D. of Brigham and Women's Hospital and Harvard Medical School¹ recommends the following steps in managing the patient with CSF:

Establish the diagnosis

Symptomatic treatment

Medications for depression, anxiety, pain, sleep, allergies

Avoid exotic untested remedies

Cognitive-behavioral therapy

Provide reassurance and emotional support

Physician acceptance of symptoms

Avoid confrontational approach

Referral to support groups and counseling

Lifestyle management

Apply stress reduction

Restructure activities

Make realistic goals

Prevent further disability

Graded exercise program

Physical therapy

Regular follow-up

Continue to rule out other medical problems

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Chronic Fatigue Syndrome (Continued from page 6)

DIAGNOSTIC CRITERIA

Keiji Fukada, Stephen E. Straus, Ian Hickie, et al.,² give a definition of Chronic Fatigue Syndrome:

Classify as chronic fatigue syndrome if both of the following criteria are met:

- ◆ Unexplained persistent or relapsing fatigue of new or definite onset that is not due to ongoing exertion, is not relieved by rest, and results in a substantial reduction in previous levels of activity; *and*
- ◆ Four or more of the following symptoms are concurrently present for 6 mo. or longer:

Impaired memory or concentration that impairs everyday activities

Sore throat

Tender cervical or axillary lymph nodes

Muscle pain

Multijoint pain

New headaches lasting more than 24 hrs.

Unrefreshing sleep

Post exertional malaise

DISCUSSION

Anthony L. Komaroff, MD¹ gives an excellent discussion of this disease:

The chief complaint of chronic fatigue is common in any primary care practice. Most patients seeking medical care for chronic fatigue are suffering from depression or overwork. The illness called Chronic Fatigue Syndrome (CFS) is uncommon and is of uncertain etiology. Growing evidence indicates that it has a biologic basis and that the central nervous system and immune system are involved. At the same time, many patients with CFS suffer from depression.

There are no proven therapies for CFS, but substantial anecdotal experience indicates that low doses of tricyclic agents can improve the quality of sleep and thereby improve a patient's level of functioning. Nonsteroidal anti-inflammatory drugs can help mitigate pain from headaches, myalgias, and arthralgias. Patients who suffer from depression along with CFS should be treated with antidepressant therapy, but one randomized trial indicated that the depression associated with CFS may be resistant to selective serotonin reuptake inhibitor antidepressants.

An important part of the treatment of CFS is non-pharmacological. The clinician should pay sympathetic attention to the patient's description of the illness. The clinician should also help the patient set realistic goals, to reduce stresses, to develop a regular schedule of work and sleep, and to maintain and gradually increase activity levels.

Erin D. Bigler, Ph.D.³ notes that a basic, screening level psychological examination, including both emotional and cognitive functioning, is important for baseline and follow-up evaluations. More elaborate and costly psychological examinations are usually not needed.

Information for Patients and Supportive Associations

Centers for Disease Control and Prevention CFS

Phone (888) 232-3228

After connecting to this number, on a touch tone phone press 2-2-1-3-6-1 and you will be forwarded to the Chronic Fatigue Syndrome information system.

<http://www.cdc.gov/ncidod/diseases/cfs/cfshome.htm>

National Chronic Fatigue Syndrome and Fibromyalgia Association

Phone (816) 314-2000

<http://www.cfidsfoundation.org>

References

1. Komaroff, A. Chronic Fatigue Syndrome. In: Rakel RE, ed *Conn's Current Therapy*. Philadelphia: W.B. Saunders Company; 1998: 112-115.
2. Fukuda, K.; Straus, S.E.; Hickie, I.; Sharpe, M.C.; Dobbins, J.G.; Komaroff, A. and the International Chronic Fatigue Syndrome Study Group. The Chronic Fatigue Syndrome: A Comprehensive Approach to Its Definition and Study. *Ann Intern Med*. 1994;121: 953-959.
3. Erin D. Bigler, Ph.D., Professor and Chair, Department of Psychology, Brigham Young University, Provo, Utah (personal communication)

Legislative Update (Continued from page 1)

AB 745 (Thompson, Chapter 505, urgency statutes—takes effect immediately, Statutes of 1998), as of September 15, 1998, changes existing law to allow a physician to administer general anesthesia in a dental office; however, the physician must hold a general anesthesia permit issued by the Dental Board.

AB 974 (Gallegos, Chapter 68, Statutes of 1998), requires that health care service plans which include prescription drug benefits cannot limit or exclude coverage of a drug previously approved by that plan for a medical condition of an enrollee. Coverage will also be extended to different use drugs (those drugs used to treat conditions different from the use of the drug approved by the FDA). (See SB 625, Rosenthal.)

AB 1181 (Escutia, Chapter 31, Statutes of 1998), enables enrollees of health care service plans to receive standing referrals to specialists, or if a condition or disease requires specialized medical care over a prolonged period of time, to a specialty care center.

AB 1208 (Migden, Chapter 999, Statutes of 1998), requires that emergency regulations revising the bloodborne pathogen standards be adopted no later than January 15, 1999. The Department of Health Services and the Division of Occupational Safety and Health will compile a list of existing needleless systems and needles with sharps injury protection which shall be made available to employers in compliance with the bloodborne pathogen standards adopted by this section.

AB 1225 (Granlund, Chapter 457, Statutes of 1998), provides that an autopsy may be performed at the discretion of the coroner if the attending physician desires to certify that the cause of death is AIDS. Persons between the ages of 15-18 will be allowed to make an anatomical gift to the same extent as a person of 18 years of age upon the written consent of the parent or guardian. There are other provisions related to anatomical gifts.

AB 1397 (Gallegos, Chapter 652, Statutes of 1998), provides that no acute care hospital can implement practices which determine differing standards of obstetrical care based on the patient's source of payment. It shall constitute unprofessional conduct within the scope of the Medical Practice Act for a physician and surgeon to deny or threaten to withhold pain management service to a woman in active labor based upon the method of payment or the ability to pay for medical services.

AB 1545 (Committee on Human Services, Chapter 526, Statutes of 1998), provides that unlicensed persons may provide incidental medical services to adults in a community care facility if certain requirements are met. They must be trained by a licensed health care professional and supervised according to an individual health care plan which has been prepared by the health care team and reassessed at least every 12 months. Foster care shall be available to a child with special needs after the age of 18 if certain conditions are met.

AB 1621 (Figueroa, Chapter 788, Statutes of 1998), reconstructive surgery, is defined as "...surgery performed to correct or repair abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease to do either of the following: (1) to improve function; (2) to create a normal appearance to the extent possible." Health plans and disability insurers are required by this law to cover reconstructive surgery in contracts issued, amended, renewed or delivered on or after July 1, 1999. The law also requires the Medi-Cal Program to cover reconstructive surgery after that date. Health plans and disability insurers are permitted to require prior authorization and utilization review and may deny proposed surgery under specific circumstances.

AB 1819 (Takasugi, Chapter 172, Statutes of 1998), repeals the requirement that a physician treating an addict with a narcotic or other controlled substance is required to report such treatment to the Department of Justice within five days.

AB 1959 (Gallegos, Chapter 658, Statutes of 1998), the Department of Corporations and the Department of Health Services are required by this law to convene a working group to develop standards for quality audits of providers who provide services under health care service plans. The working group is to include a balance of health plans, consumers, public and private purchasers of health care, and providers including medical groups, independent practice associations and health facilities.

Among its charges, the group is to identify ways to streamline provider audits; develop core quality standards to serve as a baseline for audits; lessen the audit burden on providers; identify how health plans can most effectively access quality information about individual providers; and recommend how to make audit findings available to the public. The working group is to report to the Governor on its findings and recommendations by January 1, 2000.

AB 2120 (Cedillo, Chapter 175, Statutes of 1998), adds licensed acupuncturists to the list of licensed persons who may be shareholders, directors, officers or professional employees of certain professional corporations.

AB 2305 (Runner, Chapter 984, Statutes of 1998), provides that physicians who are in compliance with the California Intractable Pain Act will not be subject to disciplinary action. All medical consultants retained for an investigation must be specialists. Health care service plans shall approve or deny coverage for terminally ill enrollees within 72 hours of receipt of the information.

AB 2387 (Baugh, Chapter 892, Statutes of 1998), prohibits Medi-Cal reimbursement for specific, invasive medical procedures as rendered by a provider whose license has been placed on probation as a result of a disciplinary action as determined by the Medical Board of California, the Board of Dental Examiners, and the Osteopathic Medical Board. This

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Legislative Update (Continued from page 8)

bill also requires the Medical, Dental, and Osteopathic Boards to report annually by March 1 to the Legislature the number of: 1) licensees placed on probation during the previous year who are not receiving Medi-Cal reimbursement for certain services or invasive procedures; and 2) licensees placed on probation who are receiving reimbursement for certain surgical and invasive procedures as a result of a determination of compelling circumstances.

AB 2438 (Murray, Chapter 1064, Statutes of 1998), provides that health care service plans provide coverage for participation in statewide prenatal testing known as the Expanded Alpha Feto Protein program administered by the Department of Health Services. Health care service plans that provide maternal benefits shall not require participation in the program as a prerequisite to eligibility.

AB 2558 (Mazzoni, Chapter 128, Statutes of 1998), amends the Unemployment Insurance Code to include duly licensed midwives in the definition of those professionals who may certify medical eligibility for disability benefits. This amendment applies to normal pregnancy and/or childbirth only.

AB 2693 (Migden, Chapter 789, Statutes of 1998), requires that prescriptions for Schedule II controlled substances used by terminally ill patients shall be exempt from the specific conditions (use of a triplicate form), but must comply with the requirements of the legislation. The prescription must be completed in ink and signed and dated by the prescriber. The prescription must contain the phrase "1159.2 exemption."

AB 2719 (Gallegos, Chapter 301, urgency statute—takes effect immediately, Statutes of 1998), as of August 17, 1998, requires an accusation against a physician and surgeon to be filed with the Medical Board of California within 3 years after the Board discovers the act or omission alleged as the ground for disciplinary action, or within 7 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first.

SB 440 (Maddy, Chapter 347, Statutes of 1998), permits a pharmacist to perform additional procedures and functions as part of the care rendered by a home health agency licensed by the Department of Health Services. A pharmacist performing any of the procedures must do so in accordance with written patient specific protocols approved by the attending or supervising physician. Any changes of the approved treatment must be submitted to the treating or supervising physician in writing within 24 hours.

SB 625 (Rosenthal, Chapter 69, Statutes of 1998), is companion legislation to AB 974 dealing with prescription drug formularies used by insurance companies. The insurer is required to provide to enrollees upon request a copy of the formulary by major therapeutic categories. Health insurers are required to maintain an expeditious process to allow providers to obtain approval for non-formulary prescription drugs.

SB 694 (Polanco, Chapter 867, Statutes of 1998), requires the Department of Health Services to make available protocols

and guidelines developed by the National Institutes of Health and the California legislative advisory committee on Hepatitis C to educate physicians and other health care providers on the most recent scientific and medical information on Hepatitis C detection, diagnosis, treatment and therapeutic decision making.

SB 1129 (Sher, Chapter 180, Statutes of 1998), requires health care service plans and certain disability insurers to arrange for continuation of covered services rendered by a terminated provider to an enrollee who is undergoing a course of treatment from a terminated provider for an acute condition or serious chronic condition, or a high-risk pregnancy.

SB 1140 (Committee on Health and Human Services, Chapter 791, Statutes of 1998), requires the Medical Board and the Board of Registered Nursing to consider including a course on pain management in their continuing education requirements. This bill also requires the Medical Board to periodically develop and disseminate information and educational material regarding pain management techniques and procedures to each licensed physician and surgeon and to each general acute care hospital. It also requires the Medical Board to consult with the Department of Health Services in developing materials to be distributed.

SB 1255 (Polanco, Chapter 20, urgency statute—takes effect immediately, Statutes of 1998), existing law permitted health care providers to discount their claims to third-party payers for prompt payment. As of April 14, 1998, this bill deletes the reference to third-party payers, thus extending this provision to individuals. The bill specifically permits providers to discount bills to patients they reasonably believe are not covered by or eligible for third-party payments. This bill also specifies that if a provider discounts fees to uninsured individuals, those discounted fees shall not be considered by insurers, health plans or other payers in determining the lowest payment rate charged by the provider to any patient. This provision is effective for contracts between providers and plans or insurers issued, amended or renewed on or after the effective date of the statute.

SB 1385 (Alpert, Chapter 519, Statutes of 1998), provides for HIV testing on any available blood or patient sample of a source patient if the source patient is unable to provide informed consent under specific conditions. If the source patient is deceased, consent to perform an HIV test on any blood or patient sample legally obtained in the course of providing health care services at the time of the exposure event shall be deemed granted. (See SB 2056, Brulte.)

SB 1663 (O'Connell, Chapter 625, urgency statute—takes effect immediately, Statutes of 1998), as of September 21, 1998, provides that the staff of child day care facilities may administer inhaled medication to a child if certain requirements are met including designated training. A minimum of one staff person in the day care facilities must

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Legislative Update (Continued from page 9)

hold a current certificate in pediatric first aid and pediatric cardiopulmonary resuscitation. A minimum standard for the first aid component regarding the administration of inhaled medication is required.

SB 1702 (Rosenthal, Chapter 838, Statutes of 1998), requires health plans which use arbitration to provide the parties with a written decision indicating the prevailing party, the amount and any other relevant terms of the award, and the reasons for the award rendered. A copy of the written decision, with the names of the enrollee, the plan, witnesses, attorneys, providers, health plan employees and health facilities removed, must be provided to the Department of Corporations quarterly. The Department also may secure copies of the actual decisions as needed for enforcement of the Knox-Keene Act.

SB 1800 (Johnston, Chapter 897, Statutes of 1998), requires that the Department of Health Services recommend criteria and standards for licensing genetic counselors. These standards would be developed after meeting with medical experts representing professional medical organizations including the Medical Board. The recommendation will be presented to the Legislature by January 1, 2000.

SB 1951 (Brulte, Chapter 523, Statutes of 1998) Under SB 1951, health care service plans cannot preclude a participating physician, group or other entity from advertising which does not violate other provisions of law or regulation.

SB 1981 (Greene, Chapter 736, Statutes of 1998), extends the existence of the Medical Board, Board of Podiatry, and the Board of Physicians Assistants until July 1, 2003. Amendments also eliminate the oral examination requirement, revise the physician and surgeon licensing requirements for foreign graduates, and revise provisions relating to the release of medical records to the Medical Board.

SB 2020 (Karnette, Chapter 839, Statutes of 1998), requires health care service plans to provide coverage for screening and diagnoses of prostate cancer including but not limited to prostate-specific antigen testing and digital rectal examination.

SB 2056 (Brulte, Chapter 254, Statutes of 1998), provides that HIV testing of blood or other patient samples can be performed if the source patient is deceased. The blood or other patient samples legally obtained during the performing of health care services will be tested and the exposed individual shall be informed of the results of the HIV test. (See SB 1385, Alpert.)

SB 2238 (Polanco, Chapter 879, Statutes of 1998), requires all regulatory boards and commissions created within the jurisdiction of the Department of Consumer Affairs to initiate a process of adopting regulations on or before June 30, 1999, to require licentiates to provide written notice to clients and customers that the licentiate is licensed to practice in this state.

This legislation also requires that on or before December 31, 1999, all Boards within the Department of Consumer Affairs

must submit a report to the director describing their method for ensuring that every licensing examination administered or contracted by the Board is subject to a periodic evaluation.

SB 2239 (Committee on Business & Professions, Chapter 878, Statutes of 1998), provides for changes within many boards and bureaus of the Department of Consumer Affairs. Those changes affecting the Medical Board of California include:

- Any licensee who refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of medical records shall be guilty of a misdemeanor and such refusal constitutes unprofessional conduct punishable by suspension or revocation of the medical license.
- Physicians who apply to the Diversion Program are required to sign an agreement that the records of Diversion may, when appropriate, be used in disciplinary or criminal proceedings. There are other related provisions for the division.
- The administrative law judge may issue an interim order to suspend a license or order drug testing. This order may be issued only if the affidavits in support of the petition show that the licensee engaged in acts or omissions constituting a violation of the Medical Practice Act or if the licensee is unable to practice safely due to a mental or physical condition.

Military Physicians (Continued from page 4)

TRICARE ensures that participating military physicians are credentialed. All agreements ensure that the military health care providers are covered by liability insurance. All liability issues are monitored to ensure that the civilian health care providers have sufficient coverage to protect beneficiaries. TRICARE provides for quality assurance controls through medical staff appointments; delineation of clinical privileges; periodic reviews and appraisals of the health care provider; and that the health care provider adhere to the same medical staff bylaws as required of Military Department health care providers. In cases where medical practitioners have had their privileges limited, suspended or revoked, the Federation of State Medical Boards, National Data Bank and TRICARE practitioners are notified.

In the Medical Board's review of the standards and practices which have been put into place in the TRICARE system, members were assured that the quality of care and protection of the patient in the military-care system would be assured and, importantly, that the physicians' practice is confined solely to the military enrollee and his or her dependents. The Licensing Program, therefore, has notified the TRICARE Activity in Southern and Northern California that the agreements which have been entered into are appropriate and that legislation will be pursued in this session to conform state law to the federal law.

DISCIPLINARY ACTIONS: August 1, 1998 to October 31, 1998

Physicians and Surgeons

ANDERSON, WILLIS E., M.D. (C22532) Leesburg, VA
B&P Code §141(a). Disciplined by Virginia after being placed on 1 year supervised probation by the United States District Court for the Eastern District of Virginia for criminal charges related to the unlawful possession of child pornographic material. Revoked, stayed, 7 years probation with terms and conditions. October 23, 1998

AUGE, WAYNE KENNETH II, M.D. (G80901) Santa Fe, NM
B&P Code §§141(a), 2234, 2234(b), 2236(a), 2266.
Disciplined by New Mexico following his criminal conviction for writing a prescription for Winstrol, a Schedule III steroid, for a fictitious patient. Revoked, stayed, 7 years probation with terms and conditions including 180 days actual suspension. August 24, 1998

BALIAN, EPIPHANES KEVORK, M.D. (G23689) Bangor, ME
B&P Code §141(a). Stipulated Decision. Disciplined by Maine for failure to provide medical records to a patient upon request or to disclose the steps necessary to obtain the medical records. Public Reprimand. October 29, 1998

BEZIKIAN, HAGOP GARABED, M.D. (A39946) Los Angeles, CA
B&P Code §§490, 2234(a)(e), 2236. Stipulated Decision. Criminal conviction for filing false income tax returns. Revoked, stayed, 3 years probation with terms and conditions. September 4, 1998

BOLAND, JAMES EDWARD, M.D. (G63321) Littleton, CO
B&P Code §141(a). Disciplined by Colorado for failure to respond to 2 inquiry letters from the Colorado Medical Board regarding his treatment of a patient's injured knee in the emergency room and for failure to adequately treat the injured knee. Revoked. September 14, 1998

BOSNIAK, STEPHEN L., M.D. (G73192) New York, NY
B&P Code §141(a). Stipulated Decision. Disciplined by New York for 1 count of professional misconduct. Public Reprimand. September 4, 1998

CECH, STEPHEN A., M.D. (G10163) Westlake Village, CA
B&P Code §2238. Stipulated Decision. Prescribed controlled substances without authority. Revoked, stayed, 7 years probation with terms and conditions including 90 days actual suspension. August 12, 1998

CHEUNG, PHILIP WING HONG, M.D. (A29929) San Francisco, CA
B&P Code §2234. Stipulated Decision. Omitted or minimized information regarding his criminal conviction, the full details of his Board-imposed discipline and the surrender of his New York license on reapplications to a hospital staff in 1992, 1994 and 1996. Public Letter of Reprimand. October 29, 1998

CHOMIAK, BRYANT DOUGLAS, M.D. (G60553) Las Vegas, NV
B&P Code §§141(a), 2305. Disciplined by Nevada for practicing medicine while under the influence of controlled substances. Failed to comply with the terms and conditions of probation imposed by the Medical Board of California. Revoked. August 5, 1998

Explanation of Disciplinary Language and Actions

“Effective date of Decision”— Example: “August 10, 1998” 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).

CHOW, MAN-HUNG JASMINE, M.D. (G66745)

National City, CA

B&P Code §2234(b)(c)(d). Stipulated Decision. Failed to obtain a preoperative history and physical on a patient before surgery was performed. This preoperative history and physical was obtained after surgery when the patient was drowsy in a postoperative state. Public Reprimand. October 30, 1998

CORTINA, PABLO GARZA, M.D. (G47561) Ukiah, CA

B&P Code §2234(b)(c). Stipulated Decision. Committed acts of gross negligence and repeated negligence in his care and treatment of 2 patients. Revoked, stayed, 2 years probation with terms and conditions. August 24, 1998

CULVER, MAURICE MILTON, M.D. (GFE53021)

Jacksonville, FL

B&P Code §141(a). Stipulated Decision. Disciplined by the United States Navy for impaired knowledge and judgment in surgical pathology. Revoked, stayed, 5 years probation with terms and conditions. October 9, 1998

DIXON, DAVID G., M.D. (G5251) Corona, CA

B&P Code §§726, 2234(b)(c). Failed to properly document examinations in patient's medical records, prescribed codeine to a patient he knew was allergic to the drug, improperly disclosed confidential physician/patient information and committed acts of sexual misconduct with a patient. Revoked. August 10, 1998

ESPINOZA, RURICO R., M.D. (A24047) Whittier, CA

B&P Code §2236. Criminal conviction for attempting to murder his estranged wife. Revoked. October 15, 1998

FUENTES, FELMAS JIMENEZ, M.D. (C42076)

Bakersfield, CA

B&P Code §§2234, 2305. Disciplined by Michigan for engaging in unethical business practices related to his criminal conviction of 1 count of Medicaid fraud. Public Reprimand. October 1, 1998

GALLUZZI, VINCENT NICHOLAS, M.D. (G19217)

La Jolla, CA

B&P Code §§2234, 2234(e), 2236. Criminal conviction for soliciting someone to murder his ex-wife. Revoked. August 27, 1998

GOEI, GORDON S., M.D. (A23054) Beverly Hills, CA

B&P Code §§2052, 2234(b)(d), 2306. Practiced medicine with a suspended license, committed acts of gross negligence and incompetence in his care and treatment of a patient and violated terms and conditions of Board probation. Revoked. October 9, 1998

GRESHAM, PHYLLIS, M.D. (A45511) Ridgeland, SC

B&P Code §141(a). Disciplined by Georgia and South Carolina following her arrest in South Carolina for attempting to obtain controlled substances by fraud, unlawful distribution of controlled substances and arson. Revoked. October 15, 1998

HANSEN, DAVID CARY, M.D. (G51164) Los Angeles, CA

B&P Code §§725, 2234. Stipulated Decision. Rendered excessive treatment to 4 patients. Revoked, stayed, 5 years probation with terms and conditions including 60 days actual suspension. August 27, 1998

HEINRICH, KENNETH EDWARD, M.D. (G37867)

Yucaipa, CA

B&P Code §141(a). Stipulated Decision. Disciplined by Idaho for unlawful use of controlled substances. Revoked, stayed, 5 years probation with terms and conditions. August 27, 1998

HERING, NORTON, M.D. (G31167) Tustin, CA

B&P Code §§650, 2234(e). Committed acts of dishonesty by offering others consideration for referral of patients. Revoked, stayed, 2 years probation with terms and conditions. October 22, 1998

KALEKA, VIRENDER S., M.D. (A43546) Fresno, CA

B&P Code §2234(e). Stipulated Decision. Made false statements on an application to supervise a physician assistant by stating he had not previously been subject to a disciplinary order nor had any restrictions been imposed on his license, when in fact his physician and surgeon's license had been placed on 5 years probation by the Board on March 16, 1995. Public Letter of Reprimand. October 16, 1998

KAVANAUGH, PHILIP R., M.D. (C22375) Los Gatos, CA

B&P Code §2234(c). Stipulated Decision. Committed acts of repeated negligence in his care, treatment and prescribing to 2 patients. Revoked, stayed, 5 years probation with terms and conditions. October 22, 1998

KEEL, WILLIAM AUBREY, M.D. (G22390) Baldwin, LA

B&P Code §2234(b)(c). Stipulated Decision. Committed acts of gross negligence and incompetence during a surgical procedure for resection of a fibroid. Revoked, stayed, 5 years probation with terms and conditions. September 28, 1998

KING, WILLIAM S., M.D. (A26006) San Diego, CA

B&P Code §§822, 2236, 2234, 2238, 2239. Stipulated Decision. Mental illness affecting ability to practice medicine safely, misdemeanor criminal conviction for driving under the influence of alcohol, misdemeanor criminal conviction for failing to obtain workers compensation insurance for his employees in violation of the Labor Code and self-medication of Phen-fen for treatment of his bipolar disorder. Revoked, stayed, 7 years probation with terms and conditions. October 26, 1998

KONG, OYOUNG, M.D. (A33364) San Francisco, CA

B&P Code §§2234, 2234(c), 2261. Knowingly made entries on a patient's medical record that falsely represented a state of facts and committed acts of repeated negligence by allowing a patient to be transported to a hospital via private car. He then failed to notify the hospital of the pending transfer of the patient and he made false entries in the patient's medical records. Revoked, stayed, 3 years probation with terms and conditions. September 11, 1998

KOOKER, ROBERT ALLEN, M.D. (G32236) Loomis, CA
B&P Code §2354. Stipulated Decision. Terminated for cause from the Board's Diversion Program thereby violating the terms and conditions of his Board probation. Revoked, stayed, 3 years probation with terms and conditions. October 29, 1998

KORMAN, DAVID, M.D. (G12794) Brooklyn, NY
B&P Code §§141(a), 2234. Violated terms and conditions of California Board probation. Revoked. September 14, 1998

KOROL, GEORGE WALTER, M.D. (G47040) Tustin, CA
B&P Code §§2234, 2236. Criminal conviction for making terrorist threats, arson of an inhabited structure, arson of property and possession of flammable material. These criminal acts occurred during a divorce and custody fight. Revoked. August 21, 1998

KRALIK, RITA M., M.D. (G57119) Gates Mills, OH
B&P Code §§2234, 2305. Disciplined by Ohio, Rhode Island and Hawaii for mental illness affecting her ability to practice medicine safely. Revoked. September 3, 1998. Judicial review being pursued.

KRANK, DANIEL F., M.D. (A19965) Silver Spring, MD
B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Maryland for failure to cooperate with an investigation of the Maryland State Board by failing to timely provide certain requested medical records. Public Reprimand. September 28, 1998

LARK, DAVID LEE, M.D. (G30719) Corcoran, CA
B&P Code §2234(b)(c)(d)(e). Committed acts of gross negligence, repeated negligent acts, incompetence and dishonesty in his medical and surgical management of 4 patients. Revoked. September 1, 1998

LARSEN, PAUL DENNIS, M.D. (G23075) Fargo, ND
B&P Code §141(a). Disciplined by North Dakota for having a sexual relationship with a patient and for falsifying his application for renewal of his license to practice medicine in that state. Revoked. August 7, 1998

LEIMER-MONSHAW, ELISABETH BARBARA, M.D. (C42138) Scarsdale, NY
B&P Code §141(a). Stipulated Decision. Disciplined by New York for practicing the profession of medicine fraudulently and filing a false report by giving employment references for another physician and failing to disclose that the other physician was her husband. Public Letter of Reprimand. October 13, 1998

MCDONALD, JOHN SAMUEL, M.D. (C32631) Columbus, OH
B&P Code §141(a). Stipulated Decision. Disciplined by Ohio for writing or authorizing prescriptions for controlled substances, Hydrocodone, Dihistine DH, Aspirin with Codeine, Empirin with Codeine, Robitussin AC, Novahistine DH, and Vicodin, to himself and/or family members without maintaining medical records. Public Reprimand. October 30, 1998

MICHELSON, DAVID NATHANIEL, M.D. (G31906) Westlake Village, CA
B&P Code §2234. Stipulated Decision. Violated terms and conditions of Board probation. Revoked, stayed, 3 years probation with terms and conditions. September 25, 1998

ONEIL, KELLY JAMES, M.D. (A36888) Temecula, CA
B&P Code §2234(c). Stipulated Decision. Committed acts of repeated negligence in his care and treatment of a 72 year-old patient receiving a phenol chemical face peel and his care of a patient receiving a liposuction procedure. Revoked, stayed, 5 years probation with terms and conditions. September 14, 1998

PATEL, HITESH D., M.D. (A50292) Tustin, CA
B&P Code §2234. Stipulated Decision. Unprofessional conduct in the manner in which he communicated with a minor female patient. Revoked, stayed, 5 years probation with terms and conditions. September 24, 1998

PEOPLES, ROBERT WILLIAM, M.D. (C34824) Manhattan Beach, CA
B&P Code §§2234(a)(e), 2242. Unlawful prescribing and use of controlled substances, desflurane, Forane, isoflurane and Ethrane. Revoked effective December 23, 1996. October 19, 1998

PINKERTON, RONALD EUGENE, M.D. (G64676) Pico Rivera, CA
B&P Code §2234. Stipulated Decision. Dispute with paramedics regarding the destination of a patient. Public Letter of Reprimand. July 10, 1997

PIGNATARO, ANTHONY STEVEN, M.D. (C50059) West Seneca, NY
B&P Code §§141(a), 2305. Disciplined by New York for acts of gross negligence, gross incompetence and incompetence in his care and treatment of 2 patients. Revoked. August 3, 1998

RIFKIND, STEPHEN PAUL, M.D. (G38687) Santa Ynez, CA
B&P Code §§725, 2234(a), 2238, 2239. Stipulated Decision. Prescribed controlled substances including Dexedrine, Vicodin, and hydrocodone to himself for self-use. Revoked, stayed, 7 years probation with terms and conditions. September 3, 1998

ROWEN, ROBERT JAY, M.D. (G39465) Anchorage, AK
B&P Code §2236. Stipulated Decision. Criminal conviction for attempting to corruptly obstruct and impede the due administration of federal internal revenue laws. Public Reprimand. August 11, 1998

SAWYER, JOHN DAVID, M.D. (CFE20503) Lompoc, CA
B&P Code §2234(b). Stipulated Decision. Unsuccessfully controlled bleeding of a ruptured subcapsular hematoma following a laparoscopic cholecystectomy on a 69 year-old patient. Public Letter of Reprimand. September 16, 1998

SCHUMERT, RAPHAEL, M.D. (A41605) Van Nuys, CA
B&P Code §2234. Stipulated Decision. Failed to record the reasons for ordering the intravenous administration of Demerol during the hospitalizations of 2 patients. Public Letter of Reprimand. August 11, 1998

SIMPSON, GEORGE TRUE II, M.D. (G28083) Amherst, NY
B&P Code §§141(a), 2305. Disciplined by New York for engaging in grossly negligent conduct in his performance of surgery on an 8 year-old boy to remove a massive facial hemangioma. Revoked, stayed, 3 years probation with terms and conditions. October 26, 1998

SMALL, STUART DAVID, M.D. (G27024) Plano, TX
B&P Code §§141(a), 2234. Stipulated Decision. Disciplined by Texas for failing to adequately document a pre-surgery pre-anesthesia evaluation, prior to administering anesthesia. Public Letter of Reprimand. September 10, 1998

SONNIE, CLIFFORD MICHAEL, M.D. (A48321) Medina, OH
B&P Code §141(a). Stipulated Decision. Disciplined by Ohio following his criminal conviction for drug trafficking related to altering prescriptions belonging to another physician to procure pain medications, including Vicodin and Percocet, for his wife who was suffering from an extremely painful condition. Revoked, stayed, 5 years probation with terms and conditions including 1 year actual suspension. October 1, 1998

THOMASSEN, ELMER H., M.D. (GFE1920) Newport Beach, CA
B&P Code §§2225.5, 2234, 2234(a)(e), 2236. Failed to provide medical records to the Board after receiving a valid patient medical release and convicted of several crimes substantially related to the practice of medicine including but not limited to failure to appear in court and resisting arrest. Revoked. September 24, 1998

TRUEBLOOD, NICHOLAS R., M.D. (A19199) Mountain View, CA
B&P Code §2234. Stipulated Decision. Obtained and self-administered chloral hydrate, Vicodin, and Valium for his sleep disorder and failed to keep records. Revoked, stayed, 3 years probation with terms and conditions. September 24, 1998

TUTT, GEORGE OLIVER, Jr., M.D. (G30230) Fort Collins, CO
B&P Code §§141(a), 2234. Stipulated Decision. Disciplined by Colorado for failing to adequately document options, risks, rationale and advice, and failing to include any reference to needle biopsy for a patient who had suspected breast cancer. Public Letter of Reprimand. August 25, 1998

VIDA, ALAIN MARTIN, M.D. (A30479) Pacific Palisades, CA
B&P Code §§493, 651, 725, 2234(b)(c)(e), 2236, 2264, 2285. Stipulated Decision. Misdemeanor criminal conviction for aiding and abetting the unlicensed practice of medicine by his medical assistants at his 6 allergy and asthma clinics, false advertising, excessive treatment of patients, use of a fictitious name without obtaining a fictitious name permit from the Board and committed acts of gross negligence and repeated negligence in his care and treatment of patients. Revoked, stayed, 4 years probation with terms and conditions including 30 days actual suspension. October 5, 1998

WADE, GERALD H., M.D. (G15841) Yreka, CA
B&P Code §2234(c). Stipulated Decision. Failed to administer calcium gluconate, dextrose, insulin or sodium bicarbonate and failed to obtain a stat nephrology or medical consultation after being notified of a patient's life-threatening hyperkalemia. One year suspension, stayed, probation for a maximum period of 1 year or until the terms and conditions of probation are fulfilled. September 14, 1998

WAGNER, MALCOLM EUGENE, M.D. (C26374) Visalia, CA
B&P Code §§2234, 2234(c), 2415. Stipulated Decision. Made unprofessional and inappropriate comments to female patients, failed to properly supervise his physician assistant and failed to obtain and maintain a fictitious name permit. Revoked, stayed, 5 years probation with terms and conditions. August 21, 1998

WILLIAMS, CLEMMIE LEE, M.D. (A36026) Long Beach, CA
B&P Code §141(a). Stipulated Decision. Disciplined by the United States Navy for failure to render safe, quality patient care, demonstrated deficits in his medical knowledge, expertise and judgment and inadequate and/or inaccurate medical record documentation. Revoked, stayed, 5 years probation with terms and conditions. October 19, 1998

YOON, WOO-JOONG, M.D. (A24564) Northbrook, IL
B&P Code §141(a). Disciplined by Illinois for his failure to provide effective controls against the diversion of controlled substances, failure to keep controlled substances in properly secured areas and failure to keep and maintain a record of controlled substances dispensed by him as required by the Illinois Controlled Substances Act. Revoked. September 24, 1998

ZELIG, HARRY, M.D. (G30128) Crescent City, CA
B&P Code §2236. Criminal conviction for murdering his wife. Revoked. September 14, 1998

ZYLANOFF, PHILLIPA LOUISE, M.D. (G34223) Birmingham, MI
B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Michigan for conduct related to alcoholism. Revoked, stayed, 5 years probation with terms and conditions. September 28, 1998

DOCTORS OF PODIATRIC MEDICINE

FRIEDMAN, RORY JAYE, D.P.M. (E3644) Long Beach, CA
B&P Code §2234(e). Stipulated Decision. Unprofessional conduct in the care and treatment of a patient. Revoked, stayed, 5 years probation with terms and conditions. September 21, 1998

MARIN, PHILIP GILBERT, D.P.M. (E2182) Alameda, CA
B&P Code §§2234(e), 2236, 2237(a). Stipulated Decision.
Criminal conviction for conspiracy to distribute and to possess
with intent to distribute controlled substances, anabolic
steroids, and criminal conviction for grand theft arising out of
the submission and payment of false claims to the Medi-Cal
program. Revoked, stayed, 5 years probation with terms and
conditions. October 26, 1998

OMAHEN, DAWN B., D.P.M. (E4170 & EL1159)
Valencia, CA

B&P Code §§480(a), 2236. Stipulated Decision. Criminal
conviction for violating Penal Code Section 415, subdivision
(1). Application for licensure is granted and limited license is
renewed and reinstated. Three years probation with terms and
conditions. August 26, 1998

PAGSOLINGAN, J. RODERICK BALZA, D.P.M. (E4169)
Bakersfield, CA

B&P Code §§480, 2234, 2234(e), 2236. Stipulated Decision.
Convicted of petty theft and made false statement on his
application for licensure. Probationary license issued. Three
years probation with terms and conditions. August 14, 1998

SHELDON, M. JEROME, D.P.M. (E1117)
South San Francisco, CA

B&P Code §§822, 2239. Stipulated Decision. Mental illness
affecting his ability to practice safely and impairment due to
abuse of alcohol. Revoked, stayed, 7 years probation with
terms and conditions. October 13, 1998

TA, QUOC-HUAN VAN, D.P.M. (E3735) San Francisco, CA
B&P Code §2234. Violated terms and conditions of Board
probation. Revoked. September 18, 1998

PHYSICIAN ASSISTANTS

ALAVI, ALIAKBAR, P.A. (PA12223) Reseda, CA
B&P Code §§651, 810, 2234(a)(b)(d), 2261, 2262, 2273,
3527(a). Stipulated Decision. Disseminated or caused to be
disseminated public communications containing false,
fraudulent, misleading and deceptive statements related to the
cost of physical examinations, engaged in clearly excessive
diagnostic procedures, diagnosed and charted conditions that
did not exist and billed the patients for these services and
employed telephone solicitors to lure patients. Revoked,
stayed, 3 years probation with terms and conditions including
60 days actual suspension. September 4, 1998

BALDWIN, MELBOURNE RAY, P.A. (PA12724)
Blythe, CA

B&P Code §§2234, 2234(b)(c)(f), 3527. Stipulated Decision.
Practiced medicine without appropriate supervision by a
physician. Revoked, stayed 3 years probation with terms and
conditions. September 28, 1998

FUENTES, JESUS MENDEZ, P.A. (PA13121) Hesperia, CA
B&P Code §§2052, 2234(e), 3502. Stipulated Decision.
Practiced medicine without appropriate supervision by a
physician, administered or provided to patients and purported
to transmit a prescription from his supervising physician when
he was not under the supervision of a physician, and
administered or provided controlled substances to patients
and/or purported to transmit a prescription for controlled
substances from a supervising physician without a patient-
specific order for said prescription. Revoked, stayed, 3 years
probation with terms and conditions including 30 days actual
suspension. October 28, 1998

SURRENDER OF LICENSE WHILE CHARGES PENDING

PHYSICIANS AND SURGEONS

BARNARD, MARION C., M.D. (A10410), Bakersfield, CA
August 3, 1998

LEWIS, DAVID R., M.D. (C22898) Elgin, IL
October 1, 1998

MARSHALL, JAMES ARTHUR, M.D. (A23220) Arcadia, CA
August 20, 1998

MINKOWSKI, WILLIAM LOUIS, M.D. (CFE11316)
Santa Cruz, CA
August 11, 1998

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