



ACTION REPORT

BOARD OF MEDICAL QUALITY ASSURANCE

No. 12—October 1979

PRACTICES AND POLICIES EMPLOYED

By DMV In Determining The Medical
Fitness To Drive

This is the last of three articles dealing with the licensing of medically impaired drivers in California.

The ultimate objective of all Department of Motor Vehicles (DMV) policies and practices relating to the licensing of medically impaired drivers is to assure the safety of the individual applicant/licensee and other persons using the highways.

The specific objectives of DMV are (a) to determine the existence, nature and extent of physical or mental (P&M) defects or deficiencies, (b) to apply the appropriate restrictions or conditions of probation in cases where such defects or deficiencies do not seem to preclude safe driving, and (c) to refuse or withdraw the driving privilege of medically impaired individuals who are unqualified to engage in the safe operation of a motor vehicle.

DMV stresses in all policies and practices involving these P & M matters that the individual merits of a case determines whether or not an applicant/licensee is eligible to be licensed.

There are numerous sources of identification of P & M cases. Two of the most common of these are medical reports and license applications (original and renewal).

Medical reports in general come either from the State Department of Health Services or from physicians directly. In the latter referral the physician should obtain signed authorization for release of medical information from his or her patient directed jointly to the DMV and to his/her office. Other sources of initial referral include law enforcement agencies, accident reports, hospital and court records.

The Department of Motor Vehicles is required by Section 1808.5 of the Vehicle Code to classify medical information as confidential and therefore it is not open to public inspection. However, confidential information will be shown to the subject and to his or her attorney or authorized representative upon written request or when the confidential information is used as grounds for a possible action against the driving privilege.

In practice, the DMV has several statutory processes available to arrive at a proper determination of the P & M case. They are; (a) Investigation (b) Reexamination and (c) Hearing.

The investigation process may involve personal contact or correspondence with the individual. This process is to determine whether a person is or is not likely to be a driving hazard.

The investigation may determine that no action is required or that a more comprehensive medical history is essential by using the reexamination process.

The reexamination process requires a personal contact with the individual so that the subjective history and additional information may be elicited from the physician using signed authorizations for release of the medical history.

Whenever it is determined that a definite cause for action must be considered the individual is given an opportunity to be heard at the hearing process.

The hearing process includes the sending of a notice of the hearing ground (physical disability, lapses of consciousness, etc.), of types of proposed actions (probation, indefinite suspension and revocation) and of an opportunity to be heard as to the truth of the grounds for the hearing. The conduct of a hearing (formal or informal) is set forth in the California Vehicle Code and in the Government Code. The adherence to constitutional rights of the individual is protected in the hearing process by giving full recognition to due process of the law. This means the individual is entitled (a) to be represented by an attorney, (b) to subpoena witnesses, (c) to discover the type and nature of evidence available, (d) to examine and cross-examine witnesses, (e) to produce orally or in writing evidence in his or her behalf, etc.

Upon conclusion of the hearing process all evidence, oral and written, are considered in determining the type and degree of action warranted. The actions possible are; (a) *Probation*—the driving privilege is not withdrawn but specific terms and conditions of probation apply such as the probationer and his/her doctor reporting to DMV any adverse changes in the P & M condition. (b) *Indefinite Suspension*—the entire driving privilege is withdrawn until such time as the P & M condition is either under medical control or the cause has been medically eliminated. This action anticipates an early favorable prognosis of control or elimination of the cause. (c) *Revocation*—the entire driving privilege is withdrawn for an indefinite time. This action is based upon information that the P & M condition is impossible or difficult to control and the prognosis is unfavorable.

The DMV makes every effort to resolve the question of driver eligibility as early as possible. The physicians timely response to a DMV authorized inquiry will assist the individual and the department in this regard.

Small, Ralph Joseph William, M.D. (G-21451)—
Laguna Beach
2361(a), (b), (c), (d), (e), (f), 2380, 700, 2392, 2141,
2411, 2399.5 B&P Code
Stipulated Decision. Gross negligence and
incompetence. Mismanagement of cosmetic
surgery cases. Misrepresenting himself as Board
Certified Plastic Surgeon. Misleading and
deceptive advertising. Using unlicensed employees
to perform unauthorized medical procedures.
Revoked, stayed upon satisfaction of four
conditions, including one year actual suspension,
then 10 years probation with terms and conditions.
April 26, 1979

Valentine, Jimmie R., M.D. (A-17285)—San Diego
2361(e), (f), 490, 2361(a), 652 B&P Code
False billings to Medi-Cal. Misdemeanor
conviction for offense related to profession.
Revoked, stayed. 5 years probation with terms and
conditions.
April 2, 1979

Wang, Stanley, M.D. (G-4842)—San Francisco
2361(b), (d), (e) B&P Code
Stipulated Decision. Permitted psychotherapeutic
relationship with two female patients to become
intimately personal and damaging without seeking
professional assistance.
Revoked, stayed, and 5 years probation with terms
and conditions.
May 4, 1979

CONTINUING MEDICAL EDUCATION RELICENSURE REQUIREMENTS STATUS REPORT

In the January 1979 issue of *Action Report*, BMQA advised all physician licensees of a change in CME reporting requirements. At that time BMQA indicated that after two years of experience in administering its continuing medical education program, the Division of Licensing had revised its regulations to simplify the reporting procedure. Physicians are no longer required to report their CME courses and hours to BMQA directly but may certify by signature that they have met the Division's requirement of an average of 25 hours of approved continuing education per year. This certification is being made every other year at the time the physician renews his/her license. Each year a random sample of physicians is selected for audit to determine that they have, in fact, met the minimum requirements.

The first audit of randomly selected physicians is being completed as of this writing, and it appears that almost all the 242 physicians selected for audit have completed well in excess of the required average of 25 hours per year commencing with January 1, 1977. The highest percentage of CME courses taken were in the areas of internal medicine, surgery, psychiatry, cardiology, OB-GYN, and pediatrics.

Unfortunately, some physicians have failed to maintain accurate records of the CME they have completed, and are unable to document all the CME they have taken. Physician licensees are therefore urged to maintain a record of all Category I/prescribed credit CME completed for a period of at least four years. The Division of Licensing suggests that when a Category I/prescribed credit course is attended, the participants request the sponsor/provider of the course provide written documentation to all attendees of the course in the form of a letter, certificate, computer printout, etc., that may be retained by the individual physician. In cases where no documentation is routinely given, such as hospital conferences, the physician should (1) be sure to sign all attendance records, and (2) maintain his/her own records of the date and place of attendance for future verification in the event of an audit by BMQA. Such records are routinely retained by hospitals in their medical education or medical staff offices.

Although the Division of Licensing routinely accepts any continuing medical education program or course which qualifies for formal Category I credit from the California Medical Association or the American Medical Association and courses which qualify for prescribed credit by the American Academy of Family Physicians, *there are some exceptions*. For example, the Division of Licensing recently rejected credit for a course scheduled in a neighboring state entitled "Tax Estate and Financial Planning". Although the sponsor of the course was accredited by the American Medical Association to grant Category I credit for programs

the sponsor/provider deemed meritorious, the course clearly did not relate to continuing *medical* education, and the Division of Licensing advised the sponsor and the AMA that such programs would not be acceptable for relicensure credit in California and that registrants of the course should be so notified. Although physicians are free to attend any CME programs they desire, if a physician is selected for audit, relicensure credit will not be granted for courses that do not relate directly to patient care, community health, or public health.

Since the California Medical Association and the California Academy of Family Physicians utilize recognized CME audit procedures, physicians who report their CME hours to those organizations will not be required to provide further documentation to the Division of Licensing if audited. Physicians who certify that they have completed the average of 25 hours per year but do not report CME to those organizations will have to provide documentation for hours claimed directly to BMQA. In cases where licensees report their hours to the CMA or the CAFPP, the Division of Licensing will contact those organizations for verification of hours in the event of an audit.

Any physician who is selected for audit and cannot document 100 hours (25-hour-average per year) for the four-year relicensure period may not be eligible to renew his/her license. Additionally, any physician who certifies that he/she has maintained the 25-hour yearly average when that is not the case, may be subject to disciplinary action since such false reporting constitutes unprofessional conduct.

The initial audit reveals that, with few exceptions, California physicians are completing well in excess of the number of hours necessary for licensure renewal, are accurately reporting their CME compliance, and are completing responsible CME programs directed at improving the level of medical care in California.

There are a number of retired physicians who have elected to retain their licenses for a variety of reasons. Recently established regulations by the Division of Licensing afford the opportunity for fully retired physicians to maintain their California licenses with some restrictions, and be exempt from continuing education requirements.

Physicians interested in obtaining more information about this exemption or receiving detailed information about the continuing education requirements should write or call.

Division of Licensing—CME Unit
Board of Medical Quality Assurance
1430 Howe Avenue
Sacramento, CA 95825
(916) 920-6353

DISCIPLINARY ACTIONS APRIL 1, 1979-JUNE 30, 1979

- Ahstrom, Howard B., M.D. (A-27291)**—Los Alamitos
2417 B&P Code, Violation of Probation
2417 impairment, violated conditions of probationary order.
Revoked.
May 18, 1979
- Armstein, Lawrence, M.D. (A-10670)**—Atherton
2361(b), (d) B&P Code
Gross negligence and incompetence in neurosurgery, resulting in patient's death.
Revoked, stayed, 5 years probation with terms and conditions, 30 days actual suspension.
April 22, 1979
- Asher, John Errol, M.D. (G-20514)**—New York, N.Y.
2383, 2361(e), (a) B&P Code
Federal conviction in New York for Medicaid fraud.
Revoked.
May 18, 1979
- Bailey, Nicholas E., M.D. (AO-9376)**—Loomis
2361.5, 700, 2391, 2391.5, 2361(b), (c), (d)
Stipulated Decision. Violations of drug statutes.
Prescribing narcotics or dangerous drugs to addicts or habitues; clearly excessive prescribing; and gross negligence and incompetence.
Revoked, stayed, 10 years probation, suspended 30 days, other terms and conditions.
April 2, 1979
- Behne, Dorothea J., M.D. (A-13416)**—Los Angeles
2361(b), (c), (d) B&P Code
Stipulated Decision. Charges of gross negligence in obstetrical care not pursued in view of stipulated surrender of license, 10 years probation; must pass OB-GYN exam before resuming practice.
May 28, 1979
- Brown, George D., M.D. (C-6216)**—Auburn
2361.5, 490, 2391, 2391.5, 4232 B&P Code
Misdemeanor convictions for violations of drug statutes; Failure to report an addict; failure to keep records of Schedule II drug transactions.
Prescribed controlled drugs to addicts; excessive prescribing.
Revoked, fulfill conditions then stayed, 10 years probation with terms and conditions.
April 11, 1979.
- Brownd, Richard G., M.D. (G-31155)**—Los Angeles
2399.5, 2391.5 B&P Code
Stipulated Decision. Prescribed dangerous drugs without a good faith prior examination and medical indication therefor to persons not under his treatment for a pathology or condition in violation of State statutes; prescribed Dalmane for himself.
Revoked, stayed, 5 years probation with terms and conditions.
June 25, 1979
- Campbell, Vernon W. H., M.D. (C-26060)**—San Diego
2411, 2361(e) B&P Code
Stipulated Decision. Knowingly made false medical statements in "Sick Leave Benefit Applications" for school teachers.
Revoked, stayed, 2 years probation.
May 18, 1979
- Carriker, Eugene W., M.D. (A-11554)**—Carmichael
2391, 2391.5, 2399.5, 2361(a), (b), (d), 700, 2384 B&P Code, 11153, 11156, 11190 H&S Code
Stipulated Decision. Felony conviction for violation of drug statute. Prescribed large amounts of controlled drugs to various addicts; excessive prescribing; prescribing without prior exam and medical indication; gross negligence.
Revoked, stayed, 10 years probation, one year actual suspension.
May 17, 1979
- Chapman, Carl F., M.D. (G-9469)**—Aptos
2361(b), (f), 2384, 2390, 2411, 2435, 2361(a) B&P Code
Conviction in municipal court for obtaining Demerol by deceit. Anesthesiologist systematically diverted for self use portions of Demerol intended for hospital patients.
Intoxicated while attending patients.
Revoked, pass oral clinical exam, then stayed, 10 years probation with terms and conditions.
April 26, 1979
- Cherry, Herbert Oscar, M.D. (G-24722)**—Santa Ana
2390, 2391.5, B&P Code, 11170, 11173(a) H&S Code
Self-abuse of Demerol and Quaalude.
Revoked, stayed, 5 years probation with terms and conditions.
April 2, 1979
- Coleman, Ralph F., M.D. (G-11969)**—Houston, Texas (formerly, Encino, Calif.)
2360, 2361, 2361.5 B&P Code
Indiscriminate and overuse of laboratory tests not based on reasonable diagnostic probabilities.
One year suspension, stayed, 5 years probation.
May 4, 1979
- Devine, James Steven, M.D. (G-3938)**—Culver City
2399.5 B&P Code
Stipulated Decision. Prescribed controlled drugs without prior examination and medical indication therefor.
Revoked, stayed, 5 years probation with terms and conditions.
June 25, 1979
- Frankel, Edward B., M.D. (A-19114)**—Lakewood
2393, 2141, 2392, 2399, 2380, 2429, 2399.5, 2391.5, 4211(k), 4227 B&P Code
Misleading and deceptive advertising. Using unlicensed employees to perform medical procedures for hair transplants and dermatology. Use of fictitious names without permits. Employing agent to procure hair transplant business.
Suspended 90 days, stayed, 2 years probation with terms and conditions.
April 26, 1979
- Goei, Gordon S., M.D. (A-23054)**—Los Angeles
2361(a), 2141, 2393 B&P Code
Aided an unlicensed person in the practice of medicine; permitted that person to conduct a medical business under the name Asian Medical Center, which respondent represented was his medical fictitious name.
Suspended 30 days, stayed, 1 year probation.
May 4, 1979
- Gray, Richard George, M.D. (A-28504)**—Grass Valley
2399.5, 2391.5, B&P Code, 11154, 11155 H&S
Prescribed controlled drugs without prior exam and medical indication. Prescribed narcotics in violation of drug statutes, and in violation of court probation. Prior discipline.
Revoked.
June 8, 1979
- Grisez, James Louis, M.D. (G-7402)**—Napa
2390, 2391.5 B&P Code
Stipulated Decision. Diverted unlawfully Demerol for his own use from his office supply and issued false prescriptions in violation of State statutes.
Revoked, stayed, 5 years probation with terms and conditions.
June 8, 1979
- Hille, Richard E., M.D. (C-21398)**—Fort Bragg
2399.5, 2391.5 B&P Code
Prescribed dangerous drugs without a good faith prior examination and medical indication therefor to persons not under his treatment for a pathology or condition.
Revoked.
June 25, 1979
- Johnston, James C., M.D. (G-25510)**—Clairton, Pa.
2363 B&P Code
Washington license revoked by that state for grossly incompetent treatment of patients, one resulting in death.
Revoked.
April 22, 1979
- Krieger, Herbert D., M.D. (AO-7097)**—N. Hollywood
2361(e), 2411, 2361(a), 2141, 2451 B&P Code
Submitting false claims of personally rendered services to Medi-Cal and representing self as a licensed Physician and Surgeon when license had lapsed and was not valid.
Revoked, stayed, 3 years probation with terms and conditions.
April 22, 1979
- Mills, Richard G., M.D. (C-19731)**—Fort Benning, Ga. (Formerly, Monterey, Calif.)
2384 B&P Code
Conviction in municipal court for violation of drug statutes. Prescribed controlled drugs to a person not under his treatment for a pathology. Prescribed controlled drugs to a person representing herself as an addict or habitual user.
Revoked, stayed, 10 years probation with terms and conditions.
April 16, 1979
- Moran, Glenn L., Jr., M.D. (A-15879)**—Redding
2361(f), 2391.5 B&P Code, 11157, 11173(a)(1), (b), 11174, 11175, 11190 H&S Code
Issued false prescriptions to obtain Percodan for his wife. Failed to maintain accurate records of controlled drugs.
One year suspension, stayed, 5 years probation, 30 days actual suspension.
May 18, 1979
- Morgenroth, Allen, M.D. (G-11720)**—Marina del Rey
2392, 2399.5 B&P Code
Aided and abetted the unlicensed practice of medicine, furnished dangerous drugs to a person without a prior examination.
Revoked, stayed, 5 years probation with terms and conditions.
June 25, 1979
- Offutt, Richard G., M.D. (C-35400)**—Downey
Section 2417 impairment. Stipulated settlement. Proceedings suspended on certain terms and conditions.
April 3, 1979
- Qualls, Renaldo R., M.D. (A-10730)**—Alhambra
2361(e), 2411 B&P Code
Knowingly issued false medical releases with false illnesses to accommodate individuals returning to work.
Revoked, stayed, 5 years probation with terms and conditions.
June 25, 1979
- Randolph, H. L., M.D. (C-6865)**—Ontario
2399.5, 2361.5 B&P Code
Stipulated Decision. Prescribed dangerous drugs without a good faith prior examination and medical indication therefor in excessive amounts.
Revoked, stayed, 7 years probation, actual 180 day suspension, other terms and conditions.
May 24, 1979
- Shapiro, William, M.D. (C-32022)**—Mission Hills
2361(b) B&P Code
Gross negligence. Using experimental loop technique to repair fractured jaws without forewarning patients. Performed unnecessary facial surgery. Performed elective cosmetic surgery in the presence of an open wound.
Revoked, stayed, 10 years probation with terms and conditions.
April 16, 1979

THE PHYSICIAN AND CHILD ABUSE

Chapter 958 of California Statutes of 1977 mandates physicians to report cases of suspected child abuse. The reports must be made by telephone and in writing to the local police authority and the juvenile probation department. As an alternative, the verbal and written reports may be submitted to either the county welfare department or the county health department.

The physician is protected against civil or criminal liability resulting from such reports unless it can be proven that a false report was made and the physician knew or should have known that the report was false. A person found guilty of violating this section of the law is punishable by a fine not exceeding \$500 or by imprisonment in the county jail of not more than six months or both.

In an attempt to promote greater awareness of the dynamics of child abuse and to provide assistance to physicians in identifying possible child abuse cases, the State Office of Child Abuse Prevention will be working with the State Board of Medical Quality Assurance and the CMA to get category one credit for child abuse courses that will be accepted as part of the physician's continuing education requirements.

If there are any questions contact the Board of Medical Quality Assurance (916) 920-6363 or the State Office of Child Abuse Prevention at (916) 322-6333.

NEW APPOINTMENTS

Two new appointments to the Medical Quality Review Committee were announced recently. Carlos B. Manlapaz, D.D.S., District 11 (Los Angeles) and Robert Ponce, D.C., also District 11. Both appointments are effective September, 1979.

DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF MEDICAL QUALITY ASSURANCE
1430 HOWE AVENUE
SACRAMENTO, CA 95825

Allied Health Professions (916) 920-6347
Applications and Examinations (916) 920-6411
Continuing Education (916) 920-6353
Disciplinary Information (916) 920-6363
Fictitious Names and Corporations (916) 920-6353
Verifications of Licenses (916) 920-6343

EXCESSIVE PRESCRIBING OF DRUGS

Due to financial constraints, AB 1250, a bill authored by Assembly Speaker McCarthy, has been delayed by the Assembly Ways and Means Committee until after January 1, 1980. This legislation would amend the Health and Safety Code (Section 11164) so as to require triplicate prescriptions for all of Schedule II class controlled substances (narcotic as well as non-narcotic drugs). Under present law, triplicate prescriptions are only required for Schedule II narcotic drugs. The non-narcotic drugs in Schedule II, though possessing relatively limited medical indications, have the potential for the most abuse for any class of the scheduled controlled substances.

Other states have attempted to address this problem with legislative measures that effectively restrict the physician's freedom to practice medicine. This legislation does not interfere in any way with the prescribing privileges of well qualified and ethical physicians who prescribe these drugs sparingly and for accepted medical indications.

The intent of this legislation is to provide a mechanism to deter the abusive prescribing of these drugs by a minority of physicians, as well as to deter the illicit diversion of this class of drugs.

NEW FORMS FOR WALLET CERTIFICATES

All of the boards and bureaus under the Department of Consumer Affairs will be phasing in the use of standardized wallet certificates. This change was effective in August for physicians licensed by the Board of Medical Quality Assurance. The new wallet certificates contain the same basic information as in the past and differ only in format and color.

A wallet certificate is issued for two purposes. It provides the licensee with a receipt showing payment of license fees and an identification card indicating a clear license status. It also provides a handy reference for license and reference numbers.