BMQA Experience With Non-Disciplinary Reviews of Physicians’ Practices 1985

Many complaints reviewed by the BMQA are resolved through an informal conference with the physician under scrutiny. This process has come to be known as “non-disciplinary review” or a “level 3 action.” Some of the types of cases that fall into this category might involve the following situations:

1) Incidents of substandard care where there has been no patient harm;
2) Communication misunderstandings between doctor and patient;
3) Incidents of “well-intentioned” misprescribing of drugs without patient harm;
4) Allegations of improper professional behavior.

The non-disciplinary review permits both the subject physician and the Board’s consultants to express their thoughts concerning the merits of the complaint with the ultimate goal of preventing future complaints.

There are three formats for non-disciplinary review conferences. The simplest type (Levels 3-B, 3-C, 3-D) involve only the BMQA regional medical consultant talking with the subject physician. The second type (Level 3) adds a third physician to the participants of the above conference, an outside peer consultant. The third format, called the Physician Peer Counseling Panel (PPCP), utilizes two medical Quality Review Committee members and an expert in a particular field of practice.

Attendance by the subject physician at any of these non-disciplinary review conferences is voluntary. In addition, the physician may be accompanied by an attorney.

At the conclusion of the review conference all cases are closed, either “without merit” or “with merit.” The cases closed “with merit” are kept in BMQA files for three years, and can be resurrected should the physician come under investigation within that time period. Multiple incidents of substandard care could lead to a formal allegation of unprofessional conduct.

NON-DISCIPLINARY REVIEW STATISTICS
January–December 1985

<table>
<thead>
<tr>
<th>Regional Office</th>
<th>Level 3</th>
<th>Level 3-B</th>
<th>Level 3-C</th>
<th>Level 3-D</th>
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</table>

CODE
3 In addition to the presence of the medical consultant and the investigator, there is also a peer physician (or an MQRC member).
3-B A case that results in closure with merit.
3-C A case that results in closure without merit.
3-D A case involving drug prescribing closed with merit.
PPCP Physician Peer Counseling Panel (includes two MQRC physicians and one peer expert).

Adult Abuse Reporting Requirement

Under a law which took effect January 1, physicians, podiatrists, and most other health practitioners are required to report actual or suspected abuse of dependent adults including elderly dependent adults. Reports must be made whenever there is reasonable cause to suspect abuse is present including physical or mental abuse, sexual abuse, neglect, intimidation, deprivation of nutrition or medical care, financial abuse or other forms of mistreatment. Reports must be made to an adult protective service agency or a law enforcement agency, and are confidential.

Physicians, podiatrists or other practitioners who are employed by a public or private agency, health facility, clinic or other facility must read and sign a statement acknowledging awareness of this requirement as a condition of continued employment. The statement shall be in the following form:

Section 15630 of the Welfare and Institutions Code requires any care custodian, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who has

(Continued on Page 4)
DISCIPLINARY ACTIONS
August 1, 1985 to January 31, 1986

ABOTT, Dee L., M.D. (C-3661) Bakersfield
Stipulated surrender of active license. October 25, 1985

ANDERSON, Gerald, M.D. (A-21634) Torrance
2234(c), 2236 B&P Code
Stipulated Decision. Gross negligence and incompetence in management of patient with multiple neurological complaints. Self-use of controlled drugs in violation of prior probation. Revoked, stayed, 6 years probation on terms and conditions. August 19, 1985

CHALAMIDAS, Steuart, M.D. (G-20319) Santa Ana
2234(b), (d) B&P Code
Stipulated Decision. Gross negligence and incompetence in misdiagnosing a malignant melanoma from two biopsies taken, and in failing to obtain a consultation. Revoked, stayed, 3 years probation on terms and conditions. August 19, 1985

CHANCE, Jeffrey, M.D. (G-51359) North Miami Beach, Florida
2305 B&P Code
Stipulated Decision. Disciplined by Florida Board based on allegations of excessive and inappropriate prescribing of Dilaudid. Revoked, stayed, 5 years probation on terms and conditions. September 23, 1985

CHID, George N., M.D. (G-41208) Champaign, Illinois
2234(c), (d) B&P Code
Incompetence in diagnosis and management of fluid and electrolyte abnormalities; and repeated similar negligent acts in the administration of medications. Revoked, stayed, 5 years probation on terms and conditions. January 15, 1986

CHIN, JoucE Ann Ong, M.D. (G-1201) San Francisco
725, 2242, 2234(b), (c), (d), (e) B&P Code; 11190 H&S Code
Prescribed narcotics and other controlled drugs without medical indication, and in excessive dosages and amounts; constituting gross negligence, incompetence, and repeated similar negligent acts. Revoked, stayed, 7 years probation on terms and conditions. November 4, 1985

CLARK, Thomas William, M.D. (A-29519) Santa Monica
490, 725, 2234(b), (c), (d), (e), 2242 B&P Code
Stipulated Decision. Excessive prescribing without prior physical examination and medical indication. Conviction for prescribing controlled drug to person not under his treatment for pathology or condition. Gross negligence, incompetence and repeated similar negligent acts. Revoked, stayed, 5 years probation on terms and conditions, including 180 days actual suspension. January 8, 1986

COLEY, Nelson B., M.D. (C-18678) Yuba City
725, 2242, 2234(c), (d) B&P Code
Clearly excessive prescribing of controlled drugs without medical indication, constituting repeated similar negligent acts. One year suspension, stayed, 5 years probation on terms and conditions. Application to supervise a physician assistant is denied. January 15, 1986

DANIELSON, Harry A., M.D. (A-19632) Biloxi, Mississippi
2305 B&P Code
Disciplinary action by Arizona Board. Revoked, stayed, 5 years probation on terms and conditions. November 29, 1985

DAVIS, William H., M.D. (A-21117) Napa
2234(c) B&P Code
Stipulated Decision. Made false entries into work logs at state hospital stating he had performed physical exams of residents which, in fact, were not performed. Prior discipline. Revoked, stayed, 5 years probation on terms and conditions. November 22, 1985

2305, 2237 B&P Code

DIBAII, Said Nasser, M.D. (A-30824) Fresno
2234(c), 2236 B&P Code

DVORAK, Benjamin Anthony, M.D. (C-63196) Phoenix, Arizona
2305 B&P Code
Summary suspension of license by Arizona Board. No appearance by respondent. August 21, 1985

EARLE, Cullen L., Jr., M.D. (C-34811) Center, Texas
Stipulated voluntary surrender of license. Disciplined by Florida Board based on allegations of excessive and inappropriate prescribing of Dilaudid. Conviction for prescribing a controlled drug to a person not under treatment for pathology or condition. Conviction for receiving stolen goods. Revoked, stayed, 5 years probation on terms and conditions. October 31, 1985

JONES, Delene, M.D. (G-34990) Laredo, Texas
Stipulated Decision. Gross negligence, incompetence and repeated similar negligent acts in management of several surgical patients. Mismanagement in issuance of licenses. 45 days suspension, stayed, 5 years probation on terms and conditions, including the retesting of the FLX exam, due January 1985

LIU, Gail Far Lysie, M.D. (C-1281) Honolulu, Hawaii
2305, 2234(b), 2236, 2237, 2242 B&P Code
Stipulated Decision. Federal convictions in Hawaii for obstruction of justice and for unlawful furnishing of controlled drugs. Disciplined by Hawaii Board. Revoked, stayed, 6 months actual suspension, 5 years probation on terms and conditions. September 5, 1985

LINUKOS, Clayton E., Jr., M.D. (G-47583) Parkersburg, West Virginia
2305 B&P Code
Disciplinary suspensions by Florida medical board. One year suspension, stayed, one year probation on terms and conditions. January 15, 1986

MARTIN, Richard A., M.D. (A-22505) Santa Rosa
2234(b), (c), (e) B&P Code
Stipulated Decision. Prescribed controlled drugs without good faith prior examination and medical indication, constituting gross negligence and repeated similar negligent acts. Signing a false document. Conviction for prescribing a controlled drug to a person not under treatment for pathology or condition. Conviction for receiving stolen goods. Revoked, stayed, 5 years probation on terms and conditions. August 21, 1985

MARTINEZ, Anthony, M.D. (C-15205) City of Commerce
2236 B&P Code
Stipulated Decision. Conviction for Medi-Cal fraud claims. Excessively unsatisfactory and unclean medical clinic, in violation of probation of prior discipline. Revoked, stayed, 5 years probation on terms and conditions, including 90 days actual suspension. November 29, 1985

MC GREGOR, Milton K., M.D. (A-14532) St. George, Utah
2305 B&P Code
Disciplined by Utah medical board. 45 days suspension, stayed on condition that no other case for discipline shall occur within 100 days. December 7, 1985

MC GREGOR, William Glenn, M.D. (C-34996) Pensacola, Florida
2305 B&P Code
Stipulated Decision. Disciplined by Florida medical board for chemical abuse. No appearance by respondent at California hearing. Revoked. August 9, 1985

MELONE, Horacio, M.D. (C-10093) San Francisco
2306 B&P Code
Practiced medicine during suspension period under prior discipline. Revoked. December 27, 1985

MILLER, Deborah L., M.D. (A-21648) Rowland Heights
2234(b) B&P Code
Gross negligence in pediatric practice. Revoked, stayed, 5 years probation on terms and conditions. January 16, 1986

Olsen, Gary, M.D. (A-22801) Madera
2234(b), (d) B&P Code
Incompetence in continuing with pancreatic surgery in face of severe infection. 60 days suspension, stayed, 5 years probation on terms and conditions. December 27, 1985

PASHA, Najad I., M.D. (C-37893) Los Angeles
2313(b), (d) B&P Code
Gross negligence and incompetence in plastic surgery cases. Revoked, stayed, 5 years probation on terms and conditions. May 29, 1984

PICKER, Robert I., M.D. (C-1986) Walnut Creek
Stipulated Decision. Violation of probation prior discipline. Revoked, stayed, 5 years probation on terms and conditions, including 6 months actual suspension. November 4, 1985

PIERCE, Gary R., M.D. (C-34247) Bloomfield Hills, MI
2305 B&P Code

PLACK, Branko, M.D. (A-21974) Hawthorne
2234(b) B&P Code
Stipulated Decision. Gross negligence with numerous patients with various illnesses, demonstrating shortcomings in medical therapy. Revoked, stayed, 5 years probation on terms and conditions. September 16, 1985

RATAN, Ravi S., M.D. (A-23656) Yucca Valley
2305, 2238, 2242 B&P Code
Stipulated Decision. Excessive prescribing of controlled substances without prior examination and medical indication. Revoked, stayed, 5 years probation on terms and conditions. September 23, 1985

REDDY, Ramachandra Y., M.D. (A-12145) Yucca Valley
2234(b), (d) B&P Code
Stipulated Decision. Gross negligence and incompetence while performing a transcatheter pacemaker operation. Revoked, stayed, 7 years probation on terms and conditions, including a ban on urology practice until a training program and an oral clinical exam have been satisfied. December 7, 1985
Harry's Story

Three years ago, soon after I had moved to Sacramento, I received a telephone call from an anonymous physician who told me that his partner had been “doing drugs” for several years. The caller asked me, “What do I do?” My answer: Make him this offer—“Get into a drug treatment program (and I mentioned the BMQA Diversion Program as a possibility), or I will report you to the BMQA.”

Two days passed. The same anonymous voice called back. “My partner said that I was overreacting. He denies being an addict. He says he is only a recreational user.”

Obviously the caller had failed with his primitive efforts to placate, confront, and overcome the strong denial of a drug abusing physician. Both of us were to learn in the ensuing three years that intervention and confrontation must be done by experienced persons if it is to direct an addicted physician into treatment.

However, destiny runs inexorably, as it will do with each and every addicted physician who is not treated.

Two months later, in mid 1983, a BMQA office in Southern California received an anonymous call from a physician who stated that a physician he works with, whom we shall call “Harry”, has been using Cocaine, and his use has increased over the last year. The caller expressed fears for the safety of patients. But he wished to remain anonymous because Harry threatened to sue anyone who tried to report him to the BMQA.

A BMQA investigator methodically started zeroing in on Harry. A check with Department of Motor Vehicles revealed no citations. Department of Justice showed no criminal arrests. The Drug Enforcement Agency had nothing. A check of local hospitals revealed that Harry had staff privileges at two hospitals. Moreover, at one of these, he was chairman of the credentials committee. Nothing pointed to a drug abusing physician.

Four days after the investigation had begun, the investigator called upon Harry. The investigator made this statement: “Harry, I have reason to believe that you have a drug abuse problem. I want to give you the opportunity to enter the Board’s Diversion Program as a possibility.”

One month passed. Harry continued to attend a meeting of that Diversion Evaluation Committee. He attended a meeting of that Diversion Evaluation Committee. At that meeting, the first piece of conforming evidence surfaced. Harry’s associates admitted that “Harry did ‘cook’ socially.” They had spoken to Harry on numerous occasions, and told him that they knew he was using drugs. Harry categorically denied addiction. But they should have known. The tell-tale signs were evident. Harry frequently came to work late. He was always sleeping when they would see him doing something on weekends. He stopped making morning hospital rounds. In the last few months he made rounds later in the day, or at night. He became edgy, and had tremendous mood swings. In spite of all of these behavioral changes, Harry’s associates argued forcefully that they “had no proof that Harry was using.”

On the following day, the investigator interviewed Harry’s wife. She volunteered that Harry started using Cocaine 3½ years ago. She could not get him to stop. In the last six months his behavior had gotten progressively more bizarre. “Harry doesn’t care about anything anymore. He doesn’t pay the bills. Our car is repossessed. Our house is being foreclosed. He doesn’t have any interest in our 3-year-old son. He is out almost every night until 4 or 5 a.m. He says he has emergencies. When he isn’t working, or out, he sleeps. I know I should leave Harry, but I keep hoping he will get some help and return to being the person he used to be.”

Three days later, Harry’s wife appeared at the BMQA regional office. She turned over to the investigator a wooden box which she had taken from her husband’s safe. The box contained an empty bottle of Statadol, an empty bottle of Dalmane, an empty bottle of Nubain, four syringes, four folded papers containing a white powder, and some loose brown leafy material with seeds. That day, Harry made an appointment to seek admittance into the Board’s confidential Diversion Program. Harry appeared before a committee of five experts in the fields of mental illness and chemical dependency. The committee told Harry what he had to do in order to overcome his illness. Harry’s choice at this point was easy. Either undergo treatment or face a license discipline.

Last week, almost three years later, I attended a meeting of that Diversion Evaluation Committee in Los Angeles. There was Harry, a very successful internist and family man. The committee complimented him and discharged him from the program. Harry is lucky to be recovering because someone coerced him into a rehabilitation program.
ADULT ABUSE
REPORTING REQUIREMENT

(Continued from Page 1)

knowledge of or observes a dependent adult
in his or her professional capacity or within
the scope of his or her employment who he or
she knows has been the victim of physical
abuse, or who has injuries under
circumstances which are consistent with
abuse where the dependent adult's statement
indicate, or in the case of a person with
developmental disabilities, where his or her
statements or other corroborating evidence
indicates that abuse has occurred, to report
the known or suspected instance of physical
abuse to an adult protective services or a
local enforcement agency immediately or as
soon as practically possible by telephone and
to prepare and send a written report thereof
within 36 hours of receiving the information
concerning the incident.

“Care custodian” means an administrator
or an employee of any of the following public
or private facilities:

(1) Health facility
(2) Clinic
(3) Home health agency
(4) Educational institution
(5) Sheltered workshop
(6) Camp
(7) Respite care facility
(8) Residential care facility, including foster homes and group homes
(9) Community care facility

(10) Adult day care facility, including adult
day health care facilities
(11) Regional center for persons with
developmental disabilities
(12) Public assistance worker
(13) Adult protective services agency
(14) Patient’s rights advocate
(15) Nursing home ombudsman
(16) Legal guardian or conservator
(17) Skilled nursing facility
(18) Intermediate care facility
(19) Local law enforcement agency
(20) Any other person who provides goods
or services necessary to avoid
physical harm or mental suffering and
who performs duties

“Health practitioner” means a physician
and surgeon, psychiatrist, psychologist, den­

tist, resident, intern, podiatrist, chiroprac­
tor, licensed nurse, dental hygienist, marri­
age, family and child counselor or any other
person who is currently licensed under Divi­
sion 2 (commencing with Section 500) of the
Business and Professions Code, any emer­
gency medical technician I or II, paramedic, a
person certified pursuant to Division 2.5
(commencing with Section 1797) of the
Health and Safety Code, or a psychological
assistant registered pursuant to Division 2.5
(commencing with Section 1797) of the
Health and Safety Code, or a psychological
assistant registered pursuant to Section 2913
of the Business and Professions Code, a
marriage, family and child counselor intern
registered under Section 4980.03 of the Busi­
ness and Professions Code, or an unlicensed
marriage, family and child counselor trainee
as defined in subdivision (c) of Section
4980.44 of the Business and Professions
Code, a state or county public health
employee who treats a dependent adult for
any condition, a coroner, or a religious practi­
tioner who diagnoses, examines, or treats
dependent adults.

(c) The signed statements shall be retained
by the employer. The cost of printing, distri­
bution, and filing of these statements shall be
borne by the employer.

For additional information or copies of the
actual law, contact the State Department of
Social Services, 744 P Street, Sacramento,
CA 95814, (916) 445-6410.