

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

Regional Office	Level 3	Level 3-B	Level 3-C	Level 3-D	PPCP
Sacramento	1	25	2	15	4
Fresno	1	20	1	4	3
San Mateo	2	39	2	18	4
San Bernardino/ Santa Ana/San Diego	3	38	11	6	2
Los Angeles	9	87	27	6	0
TOTALS	16	209	43	49	13

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

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DISCIPLINARY ACTIONS

August 1, 1985 to January 31, 1986

- ABBOTT, Dee L., M.D. (C-5861) Bakersfield**
Stipulated surrender of active license.
Accusation dismissed. October 25, 1985
- ANDERSON, Gerald, M.D. (A-21634) Torrance**
2234(b), (d) 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, 5 years probation on terms and conditions, including 90 days actual suspension. August 19, 1985
- CHALAMIDAS, Stewart, 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. Discipline 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
- CHAROW, Arnold I., M.D. (C-29830) Larchmont, New York**
Voluntary surrender of license.
Accusation dismissed. September 23, 1985
- CHIDI, George N., M.D. (G-42100) 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, Joyce Ann Ong, M.D. (G-10201) San Francisco**
725, 2242, 2234(b), (c), (d), (e), 2242 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
- COPLEY, 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 medical board.
Revoked, stayed, 5 years probation on terms and conditions. November 29, 1985
- DAVIS, William H., M.D. (A-21137) Napa**
2261, 2234(e) 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
- DE SAMOS, Yvon, M.D. (A-30637) New York, New York**
2305, 2237 B&P Code
Federal conviction for conspiring to distribute Quaalude.
Revocation by Arizona Board. No appearance by respondent.
Revoked. August 21, 1985
- DIBAJI, Said Nassar, M.D. (A-30824) Fresno**
2234(c), 2236 B&P Code
Stipulated Decision. Conviction for filing false Medi-Cal claims.
Prior disciplines.
Revoked. September 8, 1985
- DVORAK, Benjamin Anthony, M.D. (C-36196) Phoenix, Arizona**
- 2305 B&P Code
Summary suspension of license by Arizona Board. No appearance by respondent.
Revoked. August 21, 1985
- EARGLE, Cantrell L., Jr., M.D. (C-34881) Center, Texas**
Stipulated voluntary surrender of license.
Accusation dismissed. September 25, 1985
- FUA, Teresita, M.D. (A-35486) Sacramento**
2234(b), (c), (d), 2120 B&P Code
Stipulated Decision. Gross negligence, incompetence, and repeated similar negligent acts in management of several pediatric patients. Mistake in original issuance of license.
45 days suspension, stayed, 5 years probation on terms and conditions, including the retaking of the FLEX exam, day one. August 21, 1985
- GENOE, Gordon Allen, M.D. (G-18518) Chicago, Illinois**
2305 B&P Code
Revocation of license by Florida Board because of medical condition. No appearance by respondent.
Revoked. October 25, 1985
- GLOVER, James R., M.D. (A-23886) Santa Rosa**
725, 2234(b), (c), (d), 2237, 2238 B&P Code; 11154, 11156 H&S Code
Stipulated Decision. Excessive prescribing of controlled drugs in a negligent and incompetent manner. Conviction for prescribing controlled drugs to a person not under treatment for a pathology or condition; and prescribing to an addict.
Revoked, stayed, 5 years probation on terms and conditions, including 30 days actual suspension. November 22, 1985
- GOODMAN, Stanley, M.D. (C-39950) Irvine**
2305 B&P Code
Stipulated Decision. Disciplinary action by Arizona Board for false billing.
Revoked, stayed, 5 years probation on terms and conditions. October 25, 1985
- GRIFFITHS, Harold M., M.D. (G-10037) Warner Robbins, Georgia**
2234(c) B&P Code
Stipulated Decision. Repeated similar negligence in numerous surgical attempts to accomplish breast reconstruction.
Revoked, stayed, 5 years probation on terms and conditions. December 26, 1985
- HINES, Wirt A., M.D. (G-20362) Salt Lake City, Utah**
2305, 2239 B&P Code
Stipulated Decision. Disciplinary action by Utah Board for self-use of controlled drugs.
Revoked, stayed, 5 years probation on terms and conditions. October 25, 1985
- JOHNSON, Denise, M.D. (G-44309) Montebello**
Failed to comply with numerous conditions of probation from prior discipline.
Revoked, stayed if prior conditions are met, then 10 years probation on terms and conditions. January 2, 1986
- JORDAN, Kent, M.D. (A-18817) Carlsbad**
726 B&P Code
Sexual relations with female patient.
Revoked, stayed 5 years probation on terms and conditions. August 26, 1985
- KENNETT, Howard R., M.D. (A-17467) Fresno**
2234(c) B&P Code
Stipulated Decision. Repeated similar negligence in failing to perform a complete examination and evaluation of auto accident patient with prior health problems.
Revoked, stayed, 3 years probation on terms and conditions. January 27, 1986
- KEUSAYAN, Margartia, M.D. (A-31710) Long Beach**
2234(b), (d) B&P Code
Stipulated Decision. Gross negligence and incompetence in administering general anesthesia by placing endotracheal tube in the esophagus.
Revoked, stayed, 5 years probation on terms and conditions, including ban on anesthesia practice. December 27, 1985
- LI, Gail Far Lyai, M.D. (C-12821) Honolulu, Hawaii**
2305, 2234(e), 2236, 2237, 2242 B&P Code
Stipulated Decision. Federal convictions in Hawaii for obstruction of justice and for unlawful furnishing of controlled drugs. Discipline by Hawaii Board.
Revoked, stayed, 6 months actual suspension, 5 years probation on terms and conditions. September 5, 1985
- LINKOUS, 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), 2236, 2237, 2242, 2261 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. October 31, 1985
- MARTINEZ, Anthony, M.D. (C-15205) City of Commerce**
2236 B&P Code
Stipulated Decision. Conviction for Medi-Cal false claims. Excessively unsanitary 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 25, 1985
- MC GREGOR, Milton K., M.D. (A-14532) St. George, Utah**
2305 B&P Code
Discipline by Utah medical board.
45 days suspension, stayed on condition that no other cause for discipline shall occur within 100 days. December 27, 1985
- MC GREGOR, William Glenn, M.D. (G-34986) Pembroke Pine, Florida**
2305 B&P Code
Disciplined by Florida medical board for chemical abuse.
No appearance by respondent at California hearing.
Revoked. August 9, 1985
- MELONE, Horatio, M.D. (C-10093) San Francisco**
2306 B&P Code
Practiced medicine during suspension period under prior discipline.
Revoked. December 27, 1985
- MILLER, Deborah I., 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-22081) Madera**
2234(d) B&P Code
Incompetence in continuing with pancreatic surgery in face of severe infection.
90 days suspension, stayed, 5 years probation on terms and conditions. December 27, 1985
- PASHA, Najdat I., M.D. (C-37893) Los Angeles**
2234(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
Judicial review recently completed.
- PICKER, Robert I., M.D. (G-19505) Walnut Creek**
Stipulated Decision. Violation of probation under 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
Discipline by Michigan medical board. No appearance by respondent in California action.
Revoked. December 27, 1985
- PLACIK, Branko, M.D. (A-21974) Hawthorne**
2234(b) B&P Code
Stipulated Decision. Gross negligence with numerous patients with varying illnesses, demonstrating shortcomings in medical therapeutics.
Revoked, stayed, 5 years probation on terms and conditions. September 16, 1985
- RATAN, Ras S., M.D. (A-23656) Yucca Valley**
725, 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 transurethral prostatectomy (TURP) 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 27, 1985

REINER, Edwin W., M.D. (A-12145) San Diego
Practiced obstetrics/gynecology in violation of probation in prior disciplinary order.
Revoked, stayed, 10 years probation on terms and conditions, including 90 days actual suspension.
December 20, 1985

SASSOON, Charles, M.D. (A-31454) Huntington Park
2305, 2234(b), (d) B&P Code
Gross negligence and incompetence in his erroneous diagnosis of a dead fetus in a patient who, in fact, was not pregnant, and in exposing this patient to a scheduled cesarean operation, which was fortunately stopped in time. Also, prior disciplines by Illinois medical board for his performances of incomplete abortions in Illinois.
Revoked, stayed, 5 years probation on terms and conditions.
July 3, 1985
Judicial review completed.

SCHMIDT, Clarence C., M.D. (A-10645) Visalia
2234(e), 2238 B&P Code; 11157, 11173 H&S Code
Issued narcotic prescriptions using fictitious names and diverted drugs to his wife who became addicted to pain killers after undergoing major surgery.
Revoked, stayed, 3 years probation on terms and conditions.
September 16, 1985

SMITH, Gerard, M.D. (G-16983) Anaheim
2234(b), (d) B&P Code
Practiced while suspended among other violations of probation of prior discipline. Also, gross negligence and incompetence in management of a surgical patient.
Revoked.
August 7, 1985

SMITH, Larry Everett, M.D. (C-34569) Marietta, Georgia
2305 B&P Code

Discipline by Indiana medical board
Revoked.
December 27, 1985

TARPLEY, Horton Earl, M.D. (C-14953) La Mesa
725, 2234 B&P Code
Excessive prescribing of controlled drugs without medical indication or pathology.
Revoked, stayed, 5 years probation on terms and conditions.
December 6, 1985

TREWIN, Merle L., M.D. (A-19977) Vallejo
Stipulated Decision. Violated probation condition of prior discipline prohibiting possession of Schedule II or Schedule III controlled drugs outside a hospital setting.
Revoked, stayed, 5 years probation on terms and conditions.
October 31, 1985

WELCH, John R., M.D. (C-22100) El Cajon
725, 2242, 2237, 2238, 2234(b), (c), (d) B&P Code
Excessive prescribing of controlled drugs without prior examination and medical indication, constituting gross negligence, incompetence, and repeated similar negligent acts. Also, conviction of prescribing a controlled drug to a person not under his treatment for a pathology or condition.
Revoked, stayed, 5 years probation on terms and conditions.
December 23, 1985

YELLEN, Benjamin J., M.D. (C-7049) Brawley
2234(b), (d) B&P Code
Gross negligence and incompetence in prescribing and injecting self-formulated medications which were medically inappropriate and dangerous. Respondent not amenable to probation or rehabilitation.
Revoked.
November 4, 1985

Judicial review completed.

YO, Loh-Seng, M.D. (C-39627) San Francisco
2234(b), (d) B&P Code
Gross negligence and incompetence in misdiagnosis and mismanagement of 11-year-old patient with classical symptoms of acute appendicitis, resulting in death.
Revoked.
January 16, 1986

ADDENDUM

The Decision in the case of GRAVELLE, Rodrigue, M.D. (G-1800), Northridge, (reported in September 1984 Action Report) was set aside by the Superior Court. Therefore, the Board has fully restored the license without discipline or conditions.

Decisions On Applicants Applying for a Physician's License

GUPTA, Arun K.—Kenner, Louisiana
496(b), 480(a)(2), (a)(3), 2234(e) B&P Code
Ejected from FLEX examination for improper copying or looking at papers of another examinee.
Denied application for a physician's license, after an evidentiary administrative hearing.
January 16, 1986

SU, Tung-Ping—Canoga Park
496(b), 480(a)(2), (a)(3), 2221, 2234(e) B&P Code
Ejected from FLEX examination for improper possession of a small booklet containing material related to the exam.
Denied application for a physician's license, after an evidentiary administrative hearing.
January 22, 1986

CONSULTANT'S CORNER

Harry's Story

This space reviews interesting and significant cases which have crossed a BMQA Medical

Consultant's desk. Names are not used, nor do we identify the physician under discussion. Please direct all comments to:

Antony C. Gualtieri, M.D., Chief Medical Consultant, BMQA, 1430 Howe Avenue, Suite 100, Sacramento, CA 95825. (916) 920-6393

Three years ago, soon after I had moved to Sacramento, I received at 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 me 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 intervene, 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. If you do not contact the program staff within 72 hours, I will continue my investigation which could possibly lead to a public accusation." The investigator checked with the Diversion Program three days later. Harry had not called.

One month passed. Harry continued to work in association with a group of four other internists. The investigator arranged to meet with a couple of Harry's colleagues. At that meeting, the first piece of conforming evidence surfaced. Harry's associates admitted that "Harry did 'coke' 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 call him to do 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 Stadol, 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 licensure 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 institution, 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
- (13) Public assistance worker
- (14) Adult protective services agency
- (15) Patient's rights advocate
- (16) Nursing home ombudsman
- (17) Legal guardian or conservator
- (18) Skilled nursing facility
- (19) Intermediate care facility
- (20) Local law enforcement agency
- (21) 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, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, marriage, family and child counselor or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency 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 Section 2913 of the Business and Professions Code, a marriage, family and child counselor intern registered under Section 4980.03 of the Business 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 practitioner who diagnoses, examines, or treats dependent adults.

(c) The signed statements shall be retained by the employer. The cost of printing, distribution, 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.

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