

ACTION REPORT

State of California - Department of Consumer Affairs

No. 40 - June 1990

President's Column

J. Alfred Rider, M.D., President



At times we hear criticism that California rates low among the 50 states in the percentage of doctors disciplined. However, it is not clear how these figures are obtained. For example, does an administrative review resulting in a warning or caution constitute discipline? A careful analysis of all actions seems to indicate that California actually is about in the middle percentagewise.

Of course these figures can be looked upon in two ways. By analogy, is it safer to live in a community with an extremely high arrest rate, or a community with a low arrest rate? Obviously, if both communities are doing their jobs properly, it would appear to be safer to live in the community with the low arrest rate. So should it be with physician discipline.

PRODUCING GOOD DOCTORS FROM THE BEGINNING

If medical schools do their jobs properly, select and teach competent, moral, ethical and honest students, they should turn into graduates of the same calibre. If the Licensing Division of the Medical Board of California does its job properly, there should be few incompetent, immoral, unethical or dishonest physicians licensed.

Finally, if the Division of Medical Quality monitors physicians properly, and disciplines early those who are incompetent, immoral, unethical or dishonest, few of these physicians will remain licensed.

It appears to me that one of the reasons that we are not a state with the highest percentage of disciplined doctors is that all three steps are being carried out well. Not perfectly, of course. There always is room for improvement. A system has never been created that is perfect, and there probably is no prospect for this - whether it be lawyers, physicians, politicians, judges, mayors, legislators, etc. However, we do constantly strive to minimize our imperfections. The Board has constantly supported and initiated legislation to improve its overall function.

The medical profession has very high visibility. Great emotions are generated by press reports of glaring incompetence or unethical or immoral behavior. These acts, of course, cannot be condoned. However, all too little publicity and visibility occur from the good

things physicians do. Sure, we read about the spectacular heart transplants, liver transplants, re-sewing of limbs and fingers, new wonder drugs, etc. With reports such as these, it is no wonder the public expects perfection and frequently cannot understand a less than perfect result - a death from surgery or pneumonia, for example.

Physicians must continue to hold themselves to the highest standards of competence, ethics and morals. We owe it to ourselves; we owe it to our patients. Any bad act reflects, not only on the health provider, but adversely on the medical profession as a whole. It hurts the general image and the confidence which patients should rightly expect to have in physicians.

REDUCING DISCIPLINE, NOT INCREASING, IS GOAL

Our goal should be to decrease the percent of physicians in need of discipline -- just as in society as a whole we try to decrease the number of people on drugs, etc. Every physician disciplined by the Board represents a failure and a tragedy in our system.

Each year we discipline a number of physicians which is equivalent to the graduates of several medical schools. An analysis of the recent disciplinary actions the Board has taken shows that the greater number were not for incompetence, but were for unethical, immoral or dishonest acts. Examinations can be given to help determine competence. But what can be done about immoral, unethical or dishonest conduct?

Believing that long term character patterns are determined by previous experience and behavioral patterns, one cannot help but wonder whether medical schools can do a better job of selecting applicants who are not only competent, but have other essential characteristics. The goal is graduates who will be the competent, moral, ethical and honest physicians we all expect. Furthermore, would it not be beneficial if the medical schools all over the world required courses in medical ethics?

In looking over the procedures relating to licensing physicians, it came as a surprise to me to find in the laws governing health profession licensure (the Business and Professions Code) Section 484, which states:

No person applying for licensure under this code shall be required to submit to any licensing board any attestation by other persons to his good moral character.

Thus, how can the Board screen applicants to try and decrease the number who enter our system with character defects which will eventually get them in trouble in California? It is my opinion that this is a glaring error, and one the Legislature should correct!

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DISCIPLINARY ACTIONS

December 1, 1989 through January 31, 1990

PHYSICIAN AND SURGEON

BERNATH, Otto N., M.D. (C-039206) - Akron, OH
2305 B&P Code
Disciplined by Ohio Medical Board for aiding and abetting unlicensed persons to write orders and treat patients. No appearance. Revoked. December 4, 1989

BREWER, Edward A., M.D. (C-017872) - Phoenix, AZ
2305 B&P Code
Disciplined by Arizona Medical Board for prescribing violations.
Revoked. Default. January 18, 1990

BRALY, Jimmy Lee, M.D. (C-033888) - Encino, CA
2242, 2234(b), 2285 B&P Code
Gross negligence in performing inadequate work-up on patient. Drug prescribing without prior physical examination and medical indication. Using fictitious name without first obtaining a fictitious name permit from this Board.
Revoked, stayed, 4 years probation on terms and conditions. May 24, 1989
JUDICIAL REVIEW COMPLETED

BROECKEL, Phillip, M.D. (G-002717) - San Juan, TX
2305 B&P Code
Disciplined by Texas Medical Board for conviction of four separate felonies.
Revoked. Default. December 4, 1989

CACERES-TORRES, Alvaro, M.D. (G-037733) - Delano, CA
Violated probation of prior discipline by concealing a conviction for a misdemeanor on the Board's quarterly statement form. Six month suspension. December 20, 1989
JUDICIAL REVIEW RECENTLY COMPLETED

CHIAROTTINO, Michael R., M.D. (G-039528) - Bonita, CA
2234(e), 2238, 2239 B&P Code
Stipulated Decision. Dishonesty in writing false prescriptions (and with expired DEA permit) to obtain narcotic drugs for self-use.
Revoked, stayed, 5 years probation on terms and conditions. January 18, 1990

DEAN, James D., M.D. (C-025205) - Santa Ana, CA
2234(b),(c), 2261, 2262, 810, 2234(e) B&P Code
Gross negligence, repeated negligent acts and incompetence in numerous cosmetic

surgeries by a private practitioner ("Board Certified, American Society of Cosmetic Breast Surgery"). False insurance billings claiming surgeries were for functional disorders when in fact they were for cosmetic purposes.
Revoked. January 14, 1987
STILL IN JUDICIAL REVIEW. NO STAY ORDER.

DILEO, Francesco B., M.D. (G-015335) - Baltimore, MD
2305 B&P Code
Stipulated Decision.
Disciplined by Maryland Medical Board for misusing psychedelic drugs in treating patients; sex misconduct with patients.
Revoked. Pass psychiatric exam, then 5 years probation on terms and conditions. January 17, 1990

DO, Son Hong, M.D. (A-038764) - Walnut, CA
490, 2234, 2236 B&P Code
Conviction for filing false claims to Medical.
Revoked, stayed, 5 years probation on terms and conditions. December 29, 1989

FLYNN, Patrick, M.D. (C-023421) - Carson City, NV
2305 B&P Code
Disciplined by Arizona Medical Board for alcohol abuse.
Revoked, stayed, 5 years probation on terms and conditions. December 29, 1989

GUROVICH, Yuzel E., M.D. (A-041072) - Los Angeles, CA
2264, 2236 B&P Code
Stipulated Decision. Conviction for aiding and abetting an unlicensed person to practice medicine in respondent's office.
Revoked, stayed, 3 years probation on terms and conditions, including 30 days suspension. December 29, 1989

JOLLY, Michael J., M.D. (G-059569) - Tucson, AZ
822 B&P Code
Ability to practice safely impaired by mental illness.
Revoked. December 27, 1989

KOLKO, Seymour, M.D. (A-013180) - Mt-Wuk Village, CA
726, 2234(c) B&P Code
Sex misconduct with patient.
Revoked. No appearance. January 21, 1990

MAC DONALD, Alexander C., M.D. (C-018067) - Bakersfield, CA

Copies of complete disciplinary Decisions and Accusations (Statements of Charges) may be ordered by writing to:

Medical Board Enforcement
1426 Howe Avenue
Sacramento, CA 95825-3236

For quick, orderly processing, please send your request by letter and enclose a check based on \$2.00 for each copy of a decision or an accusation. Give complete name and license number of doctor, as listed here. PLEASE, NO TELEPHONE REQUESTS.

CLARIFICATION OF DISCIPLINARY CASE

In the last Action Report (February 1990), we reported that Stuart Brown, M.D., of La Jolla, CA was revoked. The physician involved is Stuart Leo Brown, M.D., and not Stuart I. Brown, M.D., Chairman and Professor of Ophthalmology at University of California at San Diego, La Jolla.

725, 2234(b),(c),(e), 2242, 2238 B&P Code; 11153 H&S Code
Stipulated Decision. Excessive prescribing of controlled substances on numerous occasions without prior physical examination and medical indication, constituting gross negligence and repeated negligence.
Revoked, stayed, 5 years probation on terms and conditions, including 90 days suspension. December 8, 1989

MILLER, Milton A., M.D. (G-008477) - San Bernardino, CA
2234, 2264 B&P Code
Stipulated Decision. Aided and abetted an unlicensed employee in his ophthalmology office to perform refractory work and other optometric services.
Revoked, stayed, 3 years probation on terms and conditions. December 11, 1989

MOLNAR, Eugene M., M.D. (A-024674) - Los Angeles, CA
2234(b),(e), 2261, 2305, 810 B&P Code
Stipulated Decision. Gross negligence in cosmetic surgery. False insurance billing. Also, disciplined by Nevada Medical Board for false statement in renewal application.

Continued next page

Revoked, stayed, 5 years probation on terms and conditions, including 90 days suspension. December 29, 1989

POLUSSA, Arthur A., M.D. (A-036877) - Chicago, IL

2234, 2305 B&P Code Stipulated Decision. Disciplined by Illinois Medical Board for prescribing controlled substances without a valid license.

Revoked, stayed, 3 years probation on terms and conditions, including 90 days suspension. January 19, 1990

SACKS, Norman Joseph, M.D. (A-018335) - Toledo, OH

2234, 2305 B&P Code

Stipulated Decision. Disciplined by Ohio Medical Board for felony conviction for tax fraud.

Revoked, stayed, 5 years probation on terms and conditions. January 15, 1990

SCOTT, Richard H., M.D. (C-029797) - Sacramento, CA

2234(b) B&P Code

Persistence in attempting to deliver a baby via vacuum extraction rather than resorting to a Cesarean Section, under the circumstances, constituted gross negligence.

Revoked, stayed, 5 years probation on terms and conditions, including 30 days suspension. January 15, 1990

SERWIN, Richard L., M.D. (C-031361) - Carlsbad, CA

725, 2234(b),(c),(d) B&P Code

Stipulated Decision. Excessive use of diagnostic x-rays (600 x-rays for 12 patients) and excessive prescribing of drugs, constituting gross negligence and incompetence.

Revoked, stayed, 5 years probation, including 180 days of no medical practice.

January 18, 1990

SMALL, Ralph J.W., M.D. (G-021451) - Laguna Niguel, CA

2234(e), 2271, 17500 B&P Code

Violated conditions of probation of prior discipline. Also, committed acts of dishonesty and used misleading advertising.

Revoked. January 30, 1987

JUDICIAL REVIEW RECENTLY COMPLETED.

Court of Appeal recently dismissed respondent's appeal.

SMITH, Troy, H., M.D. (A-018889) - Fresno, CA

726 B&P Code

Stipulated Decision. Sexual misconduct with patient.

Revoked, stayed, 5 years probation on terms and conditions, including 60 days suspension. January 15, 1990

SOLOF, Barry Scott, M.D. (G-029239) - Los Angeles, CA

2361(b),(c),(d), 2399.5 B&P Code

Gross negligence involving inadequate supervision of physician assistants during 1977-1978.

Revoked, stayed, 6 months probation on terms and conditions. January 20, 1984
JUDICIAL REVIEW RECENTLY COMPLETED.

STEVENS, George V., M.D. (G-004703) - Anchorage, AK

2234(d) B&P Code

Surgeon's deteriorating skills to control excessive loss of blood in numerous tonsillectomies amount to incompetence.

Revoked, stayed, 10 years probation on terms and conditions. January 11, 1990

TALBOTT, Edmund J., M.D. (C-018360) - San Bernardino, CA

Violated probationary conditions of prior decision by not cooperating with medical examinations.

Revoked. December 22, 1989

TRANG, Si Du, M.D. (A-039367) - Monterey Park, CA

490, 2236, 2234(e), 2261, 2262, 2242 B&P Code

Conviction for filing false Medi-Cal claims. Prescribing drugs without prior examination and medical indication.

Revoked, stayed, 5 years probation on terms and conditions, including 30 days suspension. January 29, 1990

TUCK, Marshall Stephen, M.D. (G-044656) - Rancho Palos Verdes, CA

Stipulated Decision. Violated probation of prior decision by unlawfully using and possessing marijuana.

Revoked. January 12, 1990

VAKAS, John L., M.D. (C-029669) - Coffeyville, KS

2305 B&P Code

Disciplined by Kansas Medical Board for incompetence and repeated negligence involving treatment of patients with controlled substances, and the failure to monitor patients who may have had diabetes.

Revoked. No appearance at hearing.

December 28, 1989

WELLS, Ronald David, M.D. (G-061284) - Twin Falls, ID

2234, 2305 B&P Code

Disciplined by Idaho Medical Board for conviction for unlawful possession of a controlled substance, marijuana.

Revoked. Default decision. December 28, 1989

VOLUNTARY SURRENDER PHYSICIAN & SURGEON

ANDRUS, Peter F., M.D. (G-017612) - Albany, NY January 11, 1990

BULLER, Wilmer, M.D. (A-011001) - Bakersfield, CA January 8, 1990

PICCIONI, Vincent F., M.D. (C-019799) - San Jose, CA January 12, 1990

WEISSMAN, Donald L., M.D. (A-031649) - Los Angeles, CA December 4, 1989

WOOD, Russell J., M.D. (C-027810) - Edwardsville, IL December 14, 1989

PSYCHOLOGISTS

BINKLEY, John G., Ph.D. (PV-6605) - Fullerton, CA

1387(q) Title 16, Code of Regulations Stipulated Decision. Sexual relations with psychological assistant under his supervision.

Revoked, stayed, 6 years probation on terms and conditions, including 90 days suspension. December 6, 1989

BROWN, Robert W., Ph.D. (PL-4060) - Huntington Beach, CA

490, 2960 B&P Code

Stipulated Decision. Conviction for filing false Medi-Cal claims.

Revoked, stayed, 5 years probation on terms and conditions. December 30, 1989

LEE, Eva, Ph.D. (PSY-8261) - San Diego, CA

490, 810, 2960 B&P Code

Stipulated Decision. Conviction for filing false Medi-Cal claims.

Revoked, stayed, 5 years probation on terms and conditions. January 10, 1990

CORRECTION: (From Action Report, No. 37-July 1989) to read as follows:

HAIMSON, Alvin I., Ph.D. (PG-2721) - Menlo Park, CA

2960(f) [presently 2960(j)] B & P Code

Stipulated Decision. Gross negligence in permitting or encouraging an unprofessional relationship to develop between himself and a female client. Revoked, stayed, 5 years probation on terms and conditions, including 60 days suspension. November 16, 1988

PODIATRISTS

Schur, Martin Jay, D.P.M. (E-1283) - San Diego, CA

2222, 2305 B&P Code

Disciplined by Alaska licensing board for false insurance billings and podiatric incompetence and gross negligence.

Revoked. Default. January 15, 1990

RESPIRATORY CARE PRACTITIONERS

DISCIPLINARY ACTIONS

Continued from Page 3

ACKERMAN, Scott D., R.C.P. (PD-5851) - Long Beach, CA
 3752 B&P Code
 Conviction for sexual offenses.
 Revoked. Default. December 14, 1989

BUENA-FE, Cindy L., R.C.P. (RCP-7439) - North Hollywood, CA
 3750(d), 3750.5(c) B&P Code
 Conviction for selling marijuana.
 Revoked. Default. December 14, 1989

LIPMAN, Daniel J., R.C.P. (RV-9218) - San Francisco, CA
 3750(b),(d),(j) B&P Code
 Procured RCP license through false application concealing misdemeanor conviction.
 Revoked. Default. December 14, 1989

OAKLEY, Richard, R.C.P. (RCP-9227) - Los Angeles, CA
 3750(d), 3750.5(c) B&P Code
 Conviction for possession of marijuana for sale.
 Revoked. Default. December 21, 1989

SPEECH PATHOLOGISTS

HENDRICKSON, Donelda L. (SP-1004) - Millows, CA

2533, 2533.1 B&P Code
 Kidnapped son-in-law and held him at gun point for an hour, resulting in conviction for assault with deadly weapon and use of firearm during a felony.
 Revoked. Default. December 31, 1989

STATEMENTS OF ISSUES DECISIONS

PHYSICIAN AND SURGEON
 (Decisions affecting applicants for licensure following their requests for a hearing before an impartial Administrative Law Judge to review an agency's refusal to grant a license.)

ZOLMAN, Josef C. (applicant) - Germantown, MD
 Applicant is a graduate of an accelerated Ph.D./M.D. medical school program in Juarez, Mexico. After reviewing all the evidence, the Administrative Law Judge concluded the applicant failed to establish that he satisfactorily completed a resident course of instruction of four academic years (or at least 32 months of actual instruction) in a medical school or schools, as required by B&P 2089 and 2102.
 Application for a physician and surgeon license is denied. January 22, 1990

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 (Non-Complaint calls to this number will not be transferred)

- Physicians and Surgeons:**
- Applications and Examinations (916) 920-6411
 - Chief Medical Consultant (916) 920-6393
 - Complaints: See hotline number above
 - Continuing Education (916) 920-6074
 - Disciplinary Information (916) 920-6343
 - Health Facility Discipline Reports (916) 924-2338
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- Licensing or other Information
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