Action Report
Medical Board of California

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IN THIS ISSUE

1997-98 ANNUAL REPORT

The Medical Board's 1997-98 Annual Report is contained in the insert.

Medical Board of California Meeting Dates/Locations

1998

Nov. 5 - 7 San Diego

1999

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

All meetings are open to the public.

Physician License Fees and the Medical Board of California

The current fee for a physician and surgeon's license in California is $600 biennially, or $300 per year. The last adjustment to this fee scale was made in 1993, when fees were raised from $500 to the current level. By law, fee hikes must be approved by the Legislature and either signed by the Governor or allowed to become law without his signature. In 1995, it became apparent that the Board would again need to raise fees to keep pace with a rapidly growing workload, a result in part of the Board's increased emphasis on resolving consumer complaints as well as its heightened visibility.

Many physicians opposed a fee increase in 1995, citing concerns that there were opportunities to increase efficiency rather than merely raise fees. In response, the Medical Board directed its staff to comb through the Board's expenses and operations, making sure that every efficiency was being realized, and that any waste was eliminated. That process has continued ever since and today the Board operates on a budget which is actually reduced from that of three years ago and, as the 1997-98 Annual Report reflects, has increased its level of production.

Nevertheless, by 1997 the Board's Executive Director and the Board members concluded that an increase in fees was essential for the Medical Board to continue to meet its consumer protection mandate. This position reflects prudent management planning and a recognition that normal pressures of workload, inflation and the need for modernization would soon overwhelm even the most heroic efficiency efforts. Specifically, the Board wanted to increase licensing fees by $90 biennially, with the goals of:

- Maintaining all operations at least at their current level of efficiency.
- Improving the time lines of investigations by reducing investigator case loads to a more manageable level of 20 cases per investigator.
- Replacing the Board's relatively inefficient computerized data base management system with the new Integrated Consumer Protection System.
- Expanding the Board's consumer information and education programs.
- Increasing the Board's ability to enforce the corporate practice of medicine bar by augmenting its in-house legal services.
- Configuring field staff to better align investigative resources with workload concentrations.

For a year, the Board's Executive Director and several Board members met repeatedly, at different locations in California, with top officers and staff of the California Medical Association (CMA), explaining how the increase would be used to the benefit of consumers and physicians alike. After many such negotiating sessions, the Board believed it had addressed concerns raised by the CMA as well as addressed additional concerns which the CMA expressed, not directly related to fees. It was hoped that the CMA would support the increase, which was incorporated into SB 1930 (Polanco), a bill that carried fee language for other Department of Consumer Affairs boards. Nonetheless, just prior to the bill's final legislative hearing, at the request of the CMA, SB 1930 was amended to delete the Medical Board's proposed fee hike.

These developments have generated significant media interest, with stories so far in the *Sacramento Bee*, the *San Francisco Recorder*, *The Los Angeles Times*, Associated Press, and numerous radio stations around the state. The media has reported fairly the struggle of the Medical Board of California to keep pace with its statutory mandate to protect consumers and the questions raised about a regulatory system in which resources fail to match mandates.

The Board takes no joy in proposing a fee increase, but after three years of self-examination, organizational changes, and negotiation, believes it is essential to provide the public protection which has been outlined in the law. Accordingly, the Board will again seek the passage of fee hike legislation next year, and, in the meantime, will continue to examine other appropriate options including increased reporting to the public of physician mispractice—including malpractice settlements—necessary to provide the degree of consumer protection that Californians deserve.

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.
1998 President of the Board

The article on page 1 of this issue of the *Action Report* explains what happened to the Medical Board's proposed $90 biennial fee hike. As you know if you read the article, the California Medical Association (CMA) killed this provision of a larger bill (SB 1930 - Polanco). As President of the Medical Board, I, other Board members and our Executive Director met with the CMA leadership over the past year in face-to-face discussions regarding CMA's concerns about the Medical Board and, specifically, the fee increase. In fact, we thought we had reached an agreement in good faith with the CMA, and were surprised and disappointed (to put it mildly) to learn of CMA's actions just prior to the final legislative committee hearing.

To the credit of the Association, CMA President Robert Reid, M.D. attended the Board's August 1 meeting in San Francisco. He, together with CMA's lobbyists, heard and responded personally to the Board's concerns. Each Board member in turn expressed extreme displeasure with the CMA's conduct on this issue. I am proud of the unanimity of purpose with which the Board has responded; consumer protection is our mandate, and the Board is simply unwilling to concede to CMA's every demand as it relates to how the Medical Board regulates physicians.

Both as President of the Board, and as a CMA member, I am extremely distressed by the CMA's shortsightedness. As reflected later in this column, adequate funding is critical to the maintenance of an efficient Medical Board of California. The interests of CMA members, in my opinion, are not well served by an underfunded Medical Board, leaving it ill-equipped to do the job necessary to efficiently discipline those few of our physician colleagues who harm patients. I am at this writing still awaiting a strong and direct sign from CMA's leadership of their intention to responsibly readdress this important issue.

1997-98 Annual Report

This year's Annual Report of the Medical Board is included as an insert in this publication.

The enforcement data indicates that the programs of the Medical Board which have been developed over the past several years have maintained their efficiency and effectiveness through a continuous, evolutionary process. From this data, one sees that there are no peaks and valleys in the enforcement workload, but in fact a heavy, constant caseload is a permanent feature of the physician regulatory environment.

The Deputy Attorney General in District Office (DIDO) Program, initiated in 1997 and now expanded to all 12 Medical Board district offices, has helped considerably reduce the amount of time required for a case which is referred to the Health Quality Enforcement Section (HQES) of the Attorney General's Office to be filed as a formal Accusation. At the same time, the number of cases referred by Medical Board investigators to HQES increased from 567 in FY '96-97 to 676 in FY '97-98. Accusations filed against physicians by HQES attorneys increased from 296 in FY '96-97 to 391 in FY '97-98. Medical Board staff also is using the efficient and less costly cite-and-fine program more; 288 physicians were cited and fined for minor legal violations in FY '97-98, up from 214 in FY '96-97.

Regardless of the successes of the Enforcement Program over the past fiscal year, it is doubtful that the Board will improve its consumer protection performance. Even to continue at its current level without reasonable resources needed to ensure an adequate, professional investigative staff who can meet the Board's consumer protection mandate is questionable in today's health services world. This task is made even more challenging by the fact that in California, the burden of proof needed to successfully prosecute and prevail in administrative cases is *clear and convincing to a reasonable certainty*; this standard is not required by most other states, which use a mere *preponderance of the evidence* standard.

Further, according to the Federation of State Medical Boards, another formidable obstacle to the Board's effectiveness is that more physicians are pursuing legal challenges to state medical board decisions because of the economic and professional ramifications that administrative actions may have on their careers. This adds to the Medical Board's costs of regulation. Despite the above challenges, the enforcement statistics reflected in this year's report are indeed impressive. However, our ability to maintain this level of consumer protection and, especially, to continue to reduce the time it takes to complete an investigation within statutory mandate remains uncertain because of the absence of increased revenue necessary to do the job.

Finally, in keeping with my intent to make the *Action Report* of greater educational interest to physicians, please note the article on the law regarding patients' access to their records on page 3, and a review of the proper disposal of medical waste on page 6.

Patient Access to Medical Records

The Medical Board frequently receives inquiries from consumers and physicians regarding patients' rights to see and receive copies of their medical records. Occasionally patients file complaints against physicians for refusing to provide copies of their records, or to timely do so. Such complaints sometimes result in a consultation with the physician by Board staff and, rarely, in the imposition of a citation-and-fine. **Health and Safety Code Section 123100 et seq. clearly defines physicians' responsibilities in this area.** The following requirements are specifically included in that statute.

Any adult patient, or minor patient who by law can consent to medical treatment, or a patient representative is entitled to inspect patient records upon written request to a physician and upon payment of reasonable clerical costs to make such records available. The physician must then permit the patient to view his or her records during business hours *within five working days* after receipt of the written request. The patient or patient's representative may be accompanied by one other person of his or her choosing.

The patient or patient's representative is entitled to copies of all or any portion of his or her records that he or she has a right to inspect, upon written request to the physician along with a fee to defray the cost of copying, not to exceed 25 cents per page or 50 cents per page for records that are copied from microfilm, along with reasonable clerical costs. Physicians must provide patients with copies *within 15 days* of receipt of the request.

Copies of x-rays or tracings from electrocardiography, electroencephalography, or electromyography do not have to be provided to the patient or patient's representative if the originals are transmitted to another health care provider upon written request and *within 15 days* of receipt of the request. All reasonable costs, not exceeding actual costs, may be charged to the patient or patient's representative.

Prior to inspection or copying of records, physicians may require reasonable verification of identity, so long as this is not used oppressively or discriminatorily to frustrate or delay compliance with this law.

There are some exceptions to the above absolute requirements:

A physician may refuse the minor's representative's request to inspect or obtain copies of the minor's records if a physician determines in good faith that access to the patient records requested by the representative would have a detrimental effect on the physician's professional relationship with the minor patient or the minor's physical safety or psychological well-being.

A physician may refuse a patient's request to see or copy his or her mental health records if the physician determines there is a substantial risk of significant adverse or detrimental consequences to the patient if such access were permitted, subject to the following conditions.

(1) The physician must make a written record of the request and include it in the patient's file, noting the date of the request and explaining the physician's reason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the physician anticipates would occur if inspection or copying were permitted.

(2) The physician must permit inspection or copying of the mental health records by a physician, psychologist, marriage, family, and child counselor, or licensed clinical social worker designated by the patient. These ancillary health care providers must not then permit inspection or copying by the patient.

(3) The physician must inform the patient of the physician's refusal to permit him or her to inspect or obtain copies of the requested records, and inform the patient of the right to require the physician to permit inspection by, or provide copies to, the health care professionals listed in paragraph (2).

(4) The physician must indicate in the mental health records of the patient whether the request was made under paragraph (2).

A physician may prepare a summary of the record for inspection and copying by a patient, which the physician must make available to the patient *within 10 working days* from the date of the patient's request. If more time is needed, the physician must notify the patient of this fact and the date that the summary will be completed, *not to exceed 30 days* between the request and the delivery of the summary.

If the patient specifies to the physician that he or she is interested only in certain portions of the record, the physician is obliged to include in the summary only that specific information requested. The summary must contain for each injury, illness, or episode any information included in the record relative to: chief complaint(s), findings from consultations and referrals, diagnosis (where determined), treatment plan and regimen including medications prescribed, progress of the treatment, prognosis including significant continuing problems or conditions, pertinent reports of diagnostic procedures and tests and all discharge summaries, and objective findings from the most recent physician examination, such as blood pressure, weight, and actual values from routine laboratory tests. The summary must contain a list of all current medications prescribed, including dosage, and any sensitivities or allergies to medications recorded by the physician.

Health News

New Responsibilities for Physicians—Gynecological Cancer Information

Cancer Detection Section

California Department of Health Services

August 1998

Chapter 754, Statutes of 1997, AB 833 (Ortiz) adds Section 109278 to the Health and Safety Code which states: *The medical care provider primarily responsible for providing to a patient an annual gynecological examination shall provide to that patient during the annual examination a standardized summary in layperson's language and in a language understood by the patient containing a description of the symptoms and appropriate methods of diagnoses for gynecological cancers. Use of existing publications developed by nationally recognized cancer organizations is not precluded by this section.*

In 1998, it is estimated that there will be approximately 8,650 new cases and 2,720 deaths in California attributable to gynecological cancers. This is 13.8 percent of total female cancer incidence and 10.4 percent of female cancer mortality in the state, which is the third highest incidence and fifth highest mortality compared to all cancers for women. Gynecological cancers involve six sites (vulva, vagina, uterus, ovaries, fallopian tubes, and cervix). Between 1991-1995 in California, invasive cancer incidence was highest for uterine (16,851 new cases), ovarian (12,536 new cases), and cervical (8,531 new cases), respectively. Incidence for cancers of the vulva, vagina, and fallopian tubes are very low. The incidence of cervical and uterine cancers appear to be disproportionately high among African American, Asian Pacific Islanders, Hispanics, and especially among women from these ethnic sub-groups recently immigrating to California.

The California Department of Health Services (DHS), in collaboration with other medical and cancer organizations, has put together a working group to: further develop an inventory of accurate information on gynecological cancers; establish an advisory group to provide expert consultation, consumer and medical care perspectives, and general guidance on gynecological cancer information; and develop the standardized summary materials for gynecological cancers mandated by the law. Because the statute provided no funding, this working group will be exploring alternative funding sources to complete these activities.

The Medical Board will keep you apprised of the progress being made in the development of standardized summary material. In drafting the law, the bill's author recognized that the responsibility for distribution of the "standardized summary" can only occur once such summary has been developed. As such, physicians cannot and will not be held accountable for the distribution responsibilities until the "standardized summary" becomes available.

In the interim, health care professionals are, however, encouraged to begin sharing with patients materials on gynecological cancers which are currently available from sources mentioned on the next page or from sources which you feel best meet the needs of your patients.

Should you have any questions regarding this legislation or the attached materials please call the DHS's Cancer Detection Program at (916) 327-7768.

Resources Available for Information on Gynecological Cancers

Implementation of Chapter 754, Statutes of 1997, AB 833 (Ortiz)

The following is a list of organizations that provide educational materials, newsletters, resource materials and online information (websites) on gynecological cancers*. The following materials are only a sample of what is available through each organization. Please call the organization if you want further information on what is available on gynecological cancers.

American Academy of Family Physicians **Contact Information:** website address: http://www.aafp.org

- **Pap Smears: What They Are and What the Results Mean** (English)

Materials may be ordered through the academy, but there are price differences for members and non-members.

American Cancer Society **Contact Information:** 1-800-ACS-2345, website address: http://www.cancer.org. **Some materials include** (all titles in English):

- **Fact sheet and overview of Ovarian Cancer**
- **Fact sheet and overview of Uterine Cancer**
- **Fact sheet and overview of Cervical Cancer**
- **Fact sheet and overview of Vaginal Cancer**
- **Fact sheet and overview of Vulvar Cancer**

Fact sheets can be requested one at a time and may be photocopied.

The American College of Obstetricians and Gynecologists (ACOG) **Contact Information**: ACOG's Distribution Center at 800-762-2264, website address: www.ACOG.org.

Some materials include: **Patient Education Pamphlets** (English and Spanish):

- **Cancer of the Ovary**
- **Cancer of the Uterus**
- **Disorders of the Cervix**
- **Diseases of the Vulva**

Materials are $17.50 for 50 copies.

*Physicians are encouraged to review materials and judge the appropriateness for their patients.

The Gilda Radner Familial Ovarian Cancer Registry **Contact Information:** 1-800-OVARIAN. **Some materials include:**

- **Five Things You Should Know About Ovarian Cancer** (English)
- **Ovarian Cancer: Answers to the Most Frequently Asked Questions About Ovarian Cancer** (English)

Complimentary copies available by request. Please contact for information on purchasing bulk quantities.

Gynecologic Cancer Foundation **Contact Information:** 1-800-444-4441, website address: http://www.sgo.org

- **Maintain Your Gynecologic Health With Education and Early Detection** (English)

Complimentary copies available by request. Please contact for information on purchasing in bulk quantities.

National Cancer Institute's Cancer Information Service **Contact Information:** 1-800-4-CANCER (National 800#), website address: http://www.nci.nih.org. **Some materials include**:

- **Consumer Booklet, What You Need to Know About Cancer Of the Uterus** (English, Publication Date: December 1992).
- **Consumer Booklet, What You Need to Know About Ovarian Cancer** (English, Publication Date: October 1993)
- **Consumer Booklet, Pap Tests: A Healthy Habit for Life** (English, Publication Date: March 1998, Reading Level-3)
- **La Prueba Pap** (Spanish)
- **Have a Pap Test: Do It Today For Your Health and For Your Family** (English and Spanish)
- **National Cancer Institute PDQ Screening/Prevention Summary for Patients: Ovarian Cancer Screening** (English)
- **National Cancer Institute PDQ Screening/Treatment Summary for Patients: Gestational Trophoblastic Tumor, Vaginal Cancer, Vulvar Cancer** (English)

Consumer booklets can be ordered for up to 20 free. If requesting more than 20 at a time, payment of shipping and handling of $.10 per copy is required. Quantities may be limited due to current inventory.

Proper Planning Can Assure Compliance with the Medical Waste Management Act

by Jack McGurk, Chief, Environmental Management Branch, California Department of Health Services

September 1998

The following information is intended to assist you in reviewing your current operating procedures as they relate to the Medical Waste Management Act and to offer some preventive measures to achieve compliance and to avoid formal enforcement action.

The Environmental Management Branch (EMB) of the California Department of Health Services is responsible for oversight and enforcement of the Medical Waste Management Act (Sections 117600 through 118360 of the California Health and Safety Code). There is an increasing concern on the part of solid waste workers regarding handling of untreated, or improperly treated medical waste. Load checks at solid waste disposal facilities focus attention on the issue when untreated medical wastes are uncovered in the solid waste stream. Recently, there have been several cases where EMB has taken enforcement actions against private doctors whose offices were found to be handling their medical wastes improperly.

Following are examples of two of the most frequently violated Sections of the Act which occur at facilities operated by small generators of medical waste. Prevention measures are offered to assist you in achieving compliance with the Act.

Section 118285: Sharps waste not being placed into a sharps container or being improperly containerized and/or labeled.

EMB has received numerous complaints from the public, city and county solid waste management departments, law enforcement officers, and other agencies regarding improper disposal of needles and syringes. Most often these complaints focus on disposal of needles and syringes into solid waste containers by medical, dental and other heath practitioners. As more communities recycle their solid waste stream, in an effort to meet 50 percent reduction levels by the year 2000 for solid wastes going to landfills, more attention is being focused on disposal of sharps waste. An increasing number of communities are using materials recovery facilities to sort their solid waste stream and hand sorting of these wastes often leads to needle-stick injuries to the workers. Although some of these needle-stick injuries result from unregulated home-generated sharps wastes being placed into the solid waste stream, all generators of needles and syringes must use diligence in the way they handle their sharps waste.

Prevention Measures

Used needles and syringes must be placed in sharps containers that are properly labeled with the words "sharps waste" or with the international biohazard symbol and the word "BIOHAZARD". When full, sharps containers must be taped closed or tightly lidded to prevent loss of contents. Sharps containers ready for disposal cannot be stored for more than seven days without permission from your local medical waste enforcement agency. The storage time for full sharps containers can be controlled through proper management of the timing when sharps containers become full. Several sharps containers can be made to become full at similar times so that they can all be picked up for disposal at an off-site treatment facility at the same time. There are several other possible methods for handling sharps waste. Several sharps mailback systems have been approved for use within California. A sharps treatment system [Isolyser® Sharps Management System] for use on-site has been approved as an alternative treatment technology that allows these special sharps containers to be disposed of in the solid waste stream once solidified.

Section 117945: Failure of small quantity generators, that are not required to register under the Medical Waste Management Act because they do not treat medical waste on-site, to maintain an information document and tracking documents.

All small quantity generators of medical waste that do not treat the waste on-site are required to have an information document at their facility that explains how they handle the medical waste they generate. Additionally, they are required to keep medical waste tracking documents for two years.

Prevention Measures

Small quantity generators that do not treat their medical waste on-site must develop and maintain an information document in their files that indicates how the generator contains, stores, treats, and disposes of their medical waste. Records of medical waste transported off-site for treatment must be maintained. These transportation records can be in the form of tracking documents and must show the quantity of waste transported off-site, the date transported, and the name of the registered hazardous waste hauler or individual hauling the waste under provision of a limited quantity hauling exemption. These records must be kept for a period of two years.

Should you have any questions regarding the Medical Waste Management Act and your responsibilities regarding this Act, please contact your county environmental health program or Mr. Glen Takeoka, Chief, Medical Waste Management Program, at (916) 323-3022.

Update:
California Healthy Families Program

by

Carla Agar, Deputy Director

Office of Public Affairs, California Department of Health Services

Approximately 1.6 million children in California do not have health care coverage. This ultimately contributes to a decrease in preventive care for kids, such as well-baby checkups and childhood immunizations, and leads to an increase in acute illnesses, the demand for expensive therapeutic health services, and the use of hospital emergency rooms. Consequently, many of these children go without medical, vision, and dental care.

On July 1, 1998, the Healthy Families Program (HFP) was launched by state health officials and a team of corporate, community, and health care partners. The HFP provides low-cost, comprehensive health care coverage to the state's most vulnerable population—low-income, uninsured children under 19 years of age whose family income lies between 100 and 200 percent of the federal poverty level. Under the HFP, families may choose a health plan from a variety of participating health care organizations. A low monthly premium is required of the family, which is determined by family size, income level, and the plan selected. Copayments will be $5 for most services, while preventive services, such as immunizations, will be free.

Physicians and medical offices in the state can be a critical component of reaching out to eligible children and educating their families about the availability of these new health services.

Physicians and medical offices in the state can be a critical component of reaching out to eligible children and educating their families about the availability of these new health services. Doctors and nurses can speak with patients to alert them to the new program, as well as refer them to people who can help them enroll their children in the program. Also, displaying HFP materials, which promote the program's toll-free number (1-888-747-1222), in medical offices will enable families to become aware of the program. The HFP mail-in application booklet can be ordered by calling the toll-free number or obtained free of charge at many local community centers, hospitals, medical offices, and clinics throughout the state. If you are interested in ordering HFP collateral materials, or in becoming a certified, community-based program eligible to receive monetary compensation for enrolling children into the HFP, please call toll-free 1-888-237-6248.

The HFP evolved from a federal allocation of state grants known as the Children's Health Insurance Program. Governor Wilson signed the proposed HFP into law last October. The state submitted the plan to the federal government last November and received approval by the federal Health Care Financing Administration in March. The HFP is administered by the Managed Risk Medical Insurance Board, while the education and outreach campaign for the program is administered by the California Department of Health Services.

Thomas Haider, M.D. Appointed to Medical Board

On July 15, 1998, Governor Pete Wilson announced the appointment of Thomas Haider, M.D. to the Medical Board of California's Division of Licensing. Dr. Haider is president of the Inland Empire Spine Center, a practice with which he has been affiliated since 1992. Dr. Haider serves on the Clinical Faculty of the University of California, Riverside. He also invented the Haider/VCR Spinal Fixation System. Previously, he served as a spine surgeon for the Community Medical Group from 1990 to 1992. He served as an orthopedic resident at the University of Colorado from 1984 to 1989 and a spine surgery fellow from 1989 to 1990.

Dr. Haider is a member of the American, California and Riverside County Medical Associations, the North American Spine Society, the American Back Society and the California Society of Industrial Medicine and Surgery.

Clinical Breast Examination: Proficiency and Risk Management

Cancer Detection Section, California Department of Health Services, August 1998

*In an effort to improve the quality of women's health services in California, the Cancer Detection Section of the California Department of Health Services convened a workgroup of national experts in 1995 to develop a continuing education curriculum for Breast Cancer Early Detection Program providers entitled: "Clinical Breast Examination: Proficiency and Risk Management." As October is "Breast Cancer Awareness Month" we are presenting for your information and use a brief summary of materials used in that curriculum.**

Despite the recent emphasis on mammography as a breast cancer screening technique, clinical breast examination remains an important method in detecting some masses that are missed on mammography (some studies show that mammography has an average false negative rate of 15%), lumps found by women, interval cancers, and abnormalities in women who do not follow mammography screening recommendations or who do not fall in the age guidelines for screening mammography. Spending adequate time performing the exam is critical to the detection of abnormalities.

According to a 1995 national study by the Physician Insurers Association of America (PIAA), delayed diagnosis of breast cancer is the most common reason for malpractice claims against physicians. These claims account for the largest indemnity payments of any medical condition in the United States. Leading reasons for the delay were: physical findings failed to impress the physician (35%); physicians failed to follow-up on clinical findings or patient complaints (31%), negative mammography results (26%), and mammogram misread (23%). The average delay in diagnosis was 14 months.

What can clinicians do to assure that they are performing proficient and productive clinical breast exams?

Techniques for clinical breast examination have changed in recent years as a result of the malpractice claims, research with clinicians using standardized patients and silicone breast models with simulated lumps, and feedback from women about their examination experiences.

The need for physician communication with the patient cannot be emphasized enough. Some women may be perplexed by or feel uncomfortable with the familiarity of these procedures. Complete communication and explanation of the procedures and their need are vital to allaying these understandable concerns.

*Please note that this resource-intensive curriculum is not yet widely available. DHS is exploring the most effective way to disseminate the curriculum.

1. Use a consistent technique and an approach that includes the essential steps of the exam.

New techniques based on the following essential elements are beginning to be taught in proficiency-based CME courses and in health professions schools throughout the U.S.

POSITIONS

Patient Sitting

Visual inspection
- ❒ arms at sides
- ❒ arms above head
- ❒ hands on hips

Palpate lymph nodes
- ❒ supraclavicular
- ❒ infraclavicular
- ❒ axillary

Patient Supine
- ❒ Centralizes each breast
- ❒ Arm behind or at right angle to head

PERIMETER
- ❒ Palpate entire area within perimeter

PATTERN OF SEARCH
- ❒ Use consistent pattern
- ❒ Adequate amount of overlap

PALPATION
- ❒ 3 middle fingers
- ❒ Pads, not tips
- ❒ Hand bowed upward
- ❒ Sliding motion, don't lift fingers
- ❒ Overlapping, dime size circles

PRESSURE
- ❒ 3 sequential depths
  __superficial __ medium __ deep
- ❒ Solicit feedback from patient on pressure

The techniques involved in positioning the patient, using a pattern of search that covers the entire area within the perimeter of breast tissue, and palpating the tissue using a clinically proven technique and sequential depths of pressure are all important. Common palpation problems include: missing the axillary tail, not palpating the nipple/areolar complex, inconsistent pressure, and pattern of search doesn't extend to the entire breast perimeter. The visual exam in the sitting position can be incorporated into a regular physical exam protocol when checking for heart and lung sounds and has been shown to be most effective for detecting signs of abnormalities such as asymmetry and skin dimpling.

(Continued on p. 9)

Breast Cancer Brochure Update

The response to the July 1998 release of the Spanish language version of the breast cancer treatment booklet, *"Guía Para La Mujer Sobre El Diagnóstico Y El Tratamiento Del Cáncer Del Seno,"* has been tremendous. During the month of July, over 25,000 copies of this booklet have been requested and sent to physicians and clinics. The development and printing of this booklet was made possible through the generous donations of Kaiser Permanente, Southern California Region and the California Division of the American Cancer Society to the California Department of Health Services. This booklet is a result of the continuing leadership role in supporting breast cancer education in California which these organizations have taken for years.

Also, in July alone, approximately 26,800 copies of the English version of this brochure, *"A Woman's Guide to Breast Cancer Diagnosis and Treatment,"* have been distributed. The response to the July 1998 *Action Report* article and order form has been intense. Physicians may order copies of these booklets, available free of charge, by faxing their request to the Medical Board of California at (916) 263-2479 or by sending a written request to: Breast Cancer Treatment Options, Medical Board of California, 1426 Howe Avenue, Suite 54, Sacramento, CA 95825. Please specify number of copies (by bundles of 25), language (English or Spanish), and provide your return address.

Clinical Breast Examination (Continued from p. 8)

2. Spend adequate time performing the exam and communicating with the patient.

Spending adequate time conducting the exam is critical to detection of abnormalities. An inadequate breast exam may give a woman the impression that breast exams aren't important. On the other hand, taking time to thoroughly palpate the breasts without explaining the procedures and rationales to the patient also may raise concerns about appropriateness of the examination technique. Providing inadequate information or not delivering information in a manner that the woman understands places the clinician at risk for litigation and the woman at risk for not following health care recommendations. Eliciting feedback from the woman on comfort and levels of pressure will provide valuable feedback about the technique and serve as a reinforcement for breast self-examination.

Clinicians who have incorporated the new technique into their practice and increased their emphasis on communication report increased patient satisfaction and compliance with BSE and rescreening exams. The following components of communication and patient education should be considered integral to the exam. The physician should complete the following steps:

COMMUNICATION

❒ Introduce yourself
❒ Establish rapport
❒ Review health history
❒ Check on comfort
❒ Elicit/respond to questions/concerns

PATIENT EDUCATION

❒ Point out perimeter and anatomic landmarks
❒ Reinforce BSE pattern and frequency
❒ Review early detection triad intervals
❒ Check for understanding and agreement

3. Document procedures and recommendations as well as normal and abnormal clinical findings.

Documentation of findings for the medical record and for referral are essential. For breast masses, include:

- Location: draw and describe in relation to quadrants or numbers on a clock face and distance from nipple
- Size: in centimeters in 2 dimensions
- Shape: round, oval, lobular, irregular
- Consistency: soft, firm, taut, hard
- Texture: smooth, irregular
- Mobile or fixed
- Tender or nontender.

Findings reported by women also should be documented in a similar manner, even it they are not corroborated during a clinical exam. Most of the successful litigation cases in the PIAA study involved lesions found by women that subsequently received inadequate attention by physicians.

Physician Postgraduate Training

The Medical Board has worked with an independent statistician to conduct a major study of the relationship between the number of years of physician postgraduate training and the probability of a disciplinary action being taken against the physician's state license. The study found that doctors with less than two years of training after completion of medical school were nearly twice as likely to be disciplined as those with two or more years of training.

These findings suggest an important, documentable relationship between the length of postgraduate training and practice quality. Based on this study, and on comparisons with the minimum training requirements of medical boards in other states, the Board will introduce legislation next session to raise the minimum training requirements for doctors applying for a physician license in California.

California's New "Special Faculty Permit" Program

The Medical Board of California soon will begin issuing a special type of permit that will authorize eminent academic physicians to practice within California medical schools. The permit will be known as a "Special Faculty Permit" and is authorized by section 2168 of the Business and Professions Code.

Over the past few years, California's medical school deans have advised the Division of Licensing members that California's medical schools are losing promising candidates for top academic positions to other states with more flexible licensing laws. Some candidates have cited California's licensing examination requirements as a factor in their decision to accept offers from medical schools in other states whose laws allow licensure without examination for medical school faculty.

The Special Faculty Permit is designed to give California's medical schools a competitive advantage in recruiting top academic talent from other states and countries to fill positions as deans, department and division chairs, and other leadership positions on the clinical faculty responsible for teaching and clinical research. Section 2168 does not require Special Faculty Permit applicants to pass the routine written and oral examinations that apply to applicants for an unrestricted physician's license.

The criteria for the faculty permit are stringent. To qualify for a permit, candidates will have to be offered a full-time, tenure-track clinical faculty appointment at the full professor rank by one of California's eight medical schools. Once issued, permits may be renewed biennially as long as the individual continues to hold the qualifying faculty position in the medical school. Since each medical school has a limited number of positions available that will satisfy the statutory criteria, the Division does not expect heavy demand for the special permit.

The permit will authorize the faculty member to practice only within the sponsoring medical school. If the permit holder later desires to engage in practice outside the medical school, he or she would need to apply for and meet all of the routine requirements to become eligible for the standard, unrestricted California medical license.

The Special Faculty Permit program should benefit our medical schools and all Californians by attracting gifted academic physicians to the state and enhancing California's position in the national and international medical community.

Reminder to Physicians Who Employ Other Professionals

Many physicians and their offices, in an attempt to provide a full array of services, sometimes add services of other licensed professionals, usually within the allied health arena, where scope of practice is well defined. The Medical Board recently has become aware that some physicians' offices employ other licensed professionals, in turn creating responsibilities pursuant to the Practice Act of those professions. Often these professions have their own practice acts with standards that must be met. A frequently cited example is that of a physician specializing in plastic or cosmetic surgery adding electrologists and estheticians to the office. In such cases, the physician may have assumed the responsibility to have the workplace licensed under the Barbering and Cosmetology Act. You should determine if this is the case before employing other licensed personnel.

Please remember that physicians have the ultimate responsibility to see that all individuals who work in their offices function within their scope of practice, with valid licenses where a license is required, and that all the requirements of that licensee are fulfilled. In addition to the requirements of the Medical Practice Act, the licensee so employed should be able to advise you of additional requirements or you may wish to contact your attorney for further guidance.

Medical Consultant (Enforcement) Positions Available

Respond by 11/13/98

The Medical Board of California is currently examining for the position of Medical Consultant (Enforcement). **Permanent Intermittent** positions exist statewide. (Salary range $50.56 - $52.24 hourly.)

Only those who meet the following requirements will be admitted to the examination for this classification: Possession of a valid, unrestricted license for the practice of medicine in California as determined by the Medical Board of California; possession of a valid medical specialty certificate issued by the American Board of Medical Specialties; and five years of experience within the last seven years in the practice of medicine and surgery or in one of the specialties, excluding internship and postgraduate training.

Your application request must be postmarked by November 13, 1998. Please send to:

Department of Consumer Affairs
Attention: Dora Aguilar, Selection Services
400 R Street, Suite 2000
Sacramento, CA 95814

Provide the following information:
Name
Address
Phone/Fax Number
Medical License Number

If you need additional information, please call Dora Aguilar, Selection Services, at (916) 324-0672 or send an e-mail to: Dora_Aguilar@dca.ca.gov.

DISCIPLINARY ACTIONS: May 1, 1998 to July 31, 1998
Physicians and Surgeons

AHMADY, ABDUL A., M.D. (A45871) Thousand Oaks, CA
B&P Code §§2234(a)(e), 2261. Failed to document in discharge summary the insertion of a Swan-Ganz catheter and subsequent tension pneumothorax and subcutaneous emphysema which was a serious complication that contributed to the patient's death. Public Letter of Reprimand. May 12, 1998

ARABASZ, JOSEPH WALTER, M.D. (G41169) Denver, CO
B&P Code §141(a). Disciplined by Colorado for failing to comply with an order for an evaluation of any physical, emotional or psychological problems. Revoked. May 8, 1998

ASLAM, KHALID SALEEM, M.D. (A39443) Islamabad, Pakistan
B&P Code §141(a). Disciplined by Arizona for gross negligence or negligence resulting in harm to or death of a patient. Revoked. May 8, 1998

BAIRD, CURTIS JAMES, M.D. (G75160) Redlands, CA
B&P Code §4077. Stipulated Decision. Dispensed improperly labeled controlled substances. Revoked, stayed, 3 years probation with terms and conditions. June 5, 1998

BEAMS, MARVIN I., M.D. (G4943) Susanville, CA
B&P Code §2234(c). Failed to maintain adequate and complete medical records for 4 patients and committed acts of negligence in his care and treatment of 2 of those patients. Revoked, stayed, 5 years probation with terms and conditions. June 12, 1998

BLAND, JAMES H., M.D. (A43584) Minot, ND
B&P Code §141(a). Disciplined by North Dakota due to a mental disability affecting his ability to perform the duties of a physician in a competent manner. Revoked. May 11, 1998

BRADLEY, CECIL ARTHUR, M.D. (C34133) Los Gatos, CA
B&P Code §822. Stipulated Decision. Mental illness affecting ability to practice medicine safely. Revoked, stayed, 4 years probation with terms and conditions. July 30, 1998

BRENT, IRA MARTIN, M.D. (G20956) Sacramento, CA
B&P Code §§822, 2234(d), 2239(a). Stipulated Decision. Mental illness affecting ability to practice medicine safely, and self-use and self-administration of crack cocaine. Revoked, stayed, 5 years probation with terms and conditions. June 19, 1998

BUETOW, NORMAN THEODORE, Jr., M.D. (G40726) Murrieta, CA
B&P Code §2234(c). Stipulated Decision. Failed to schedule return visits for 1 patient. Public Reprimand. June 15, 1998

CHAPA, LAZARO G., M.D. (G56722) Encino, CA
B&P Code §§2236, 2239(a), 2261, 2262. Stipulated Decision. Convicted of driving while under the influence of alcohol; created false medical records with fraudulent intent; and self-use of Demerol, a controlled substance. Revoked, stayed, 5 years probation with terms and conditions. May 11, 1998

Explanation of Disciplinary Language and Actions

"Effective date of Decision"— Example: "June 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).

CSERNA, GEZA JED, M.D. (A41419) Ely, NV
B&P Code §141(a). Disciplined by Nevada based on a felony conviction for unlawful possession of a machine gun and short-barreled rifle. Revoked. May 15, 1998

DAVIES, JOSEPH ALAN, M.D. (G64976) San Diego, CA
B&P Code §§141(a), 2238, 2239. Reprimanded by the United States Navy for use of controlled substances, amphetamine/ methamphetamine, while on active duty. Revoked. July 8, 1998

DEVINE, JAMES S., M.D. (G3938) Las Vegas, NV
B&P Code §§2021, 2052, 2234(b)(e), 2238, 2242, 2266. Violated terms and conditions of Board probation, practiced medicine while suspended, failed to maintain adequate medical records, and failed to notify Board of a change of address. Revoked. June 29, 1998

GERNERT, JAMES EDWARD, M.D. (A19443) Los Angeles, CA
B&P Code §2234(a). Stipulated Decision. Administered testosterone injections on a weekly or more frequent basis to a patient without ordering timely blood tests. Public Letter of Reprimand. July 14, 1997

Help Your Colleague By Making A Confidential Referral

If you are concerned about a fellow physician who you think is abusing alcohol or other drugs or is mentally ill, you can get assistance by asking the Medical Board's Diversion Program to intervene.

The intervention will be made by staff trained in chemical dependency counseling or by physicians who are recovering from alcohol and drug addiction. As part of the intervention, the physician will be encouraged to seek treatment and be given the option of entering the Diversion Program. Participation in Diversion does not affect the physician's license.

Physicians are not required by law to report a colleague to the Medical Board. However, the Physicians Code of Ethics requires physicians to report a peer who is impaired or has a behavioral problem that may adversely affect his or her patients or practice of medicine to a hospital well-being committee or hospital administrator, or to an external impaired physicians program such as the Diversion Program.

Your referral may save a physician's life and can help ensure that the public is being protected. All calls are confidential. Call (916) 263-2600.

Medical Board of California
Physician Diversion Program
1420 Howe Avenue, Suite 14
Sacramento, CA 95825

GIONIS, THOMAS A., M.D. (C39248) San Diego, CA
B&P Code §§2234, 2236. Convicted of conspiracy to commit an assault, conspiracy to commit a trespass, assault with a deadly weapon, and assault with a firearm. Revoked, stayed, 3 years probation with terms and conditions. June 11, 1998

GJELTEMA, KENNETH J., M.D. (G58053) Albany, CA
B&P Code §2266. Stipulated Decision. Failed to keep accurate and complete medical records while providing care and treatment to 1 patient. Public Letter of Reprimand. May 18, 1998

GOYAL, KRISHNA K., M.D. (A38974) Calexico, CA
B&P Code §822. Stipulated Decision. No longer able to practice medicine due to a physical infirmity. License suspended pending competent evidence that the physical condition which caused the suspension has been remedied, then probation may be imposed for up to 3 years with terms and conditions. May 29, 1998

GRIFFITHS, CADVAN O., Jr., M.D. (G7431) Los Angeles, CA
B&P Code §§490, 2234, 2236, 2239. Convicted of driving under the influence of alcohol, misdemeanors, on 3 different occasions. Revoked, stayed, 3 years probation with terms and conditions. June 19, 1998

HOUSER, VICTOR CARL, III, M.D. (G62903) Irvine, CA
B&P Code §§125.9, 2305. Disciplined by Montana for failure to cooperate with a Board investigation and failure to ensure that his office staff transferred medical records in a timely fashion. Non-compliance with an administrative citation and fine issued by the Medical Board of California. Revoked. May 15, 1998

IACOVONI, VICTOR EMANUEL, M.D. (G21629) Napa, CA
B&P Code §2234(b). Stipulated Decision. Gross negligence in the performance of a thoracentesis during which he pierced the patient's heart with the catheter. Revoked, stayed, 4 years probation with terms and conditions. May 22, 1998

IKUTA, CLYDE M., M.D. (G11222) Anaheim, CA
B&P Code §2234(c). Stipulated Decision. Failed to adequately document a chemical burn suffered by a patient in his office, including incomplete documentation of 2 house calls made to treat the patient's burn. Public Letter of Reprimand. December 31, 1997

JAMES, DWIGHT, M.D. (G40223) Indio, CA
B&P Code §§2234, 2236, 2237, 2238. Stipulated Decision. Convicted of conspiracy to distribute and possess with intent to distribute Dilaudid. Revoked, stayed, 5 years probation with terms and conditions, including 60 days actual suspension. May 21, 1998

JANES, JAMES PAUL, M.D. (GFE6801) Camarillo, CA
B&P Code §§2234(a)(e), 2261. Violated terms and conditions of Board probation. Revoked. June 22, 1998

JOHNSON, GEORGE NICHOLAS, M.D. (C35219) Sausalito, CA
B&P Code §2234. Stipulated Decision. Prescribed controlled substances and rendered treatment to a family friend outside the normal course of his practice. Public Letter of Reprimand. September 8, 1997

JOHNSON, WILLIE LEE, M.D. (G84518) Los Angeles, CA
B&P Code §§480(a)(1), 480(a)(3), 2221, 2237(a). Criminal conviction for possession of a Schedule IV controlled substance. Probationary License granted with 5 years probation with terms and conditions. May 11, 1998

KOBASHIGAWA, TED, M.D. (A39352) Sacramento, CA
B&P Code §§2234(b)(c)(d)(e), 2236(a), 2238, 2242, 2261, 2262. Committed acts of dishonesty by creating false and fraudulent billing codes and billing Medi-Cal for services not performed; prescribed controlled substances without a good faith examination or medical indication; issued prescriptions for controlled substances that were false, fraudulent and fictitious; and convicted of submitting false claims to Medi-Cal, a felony. Revoked. July 31, 1998

KRAIN, LAWRENCE S., M.D. (G14128) Chicago, IL
B&P Code §§2234, 2236, 2305. Disciplined by Illinois for a mental illness or disability which resulted in the inability to practice with reasonable skill and safety; misdemeanor criminal conviction for solicitation to commit a felony, subornation of perjury. Revoked. May 22, 1998

LAKE, ALAN SHANLEY, M.D. (G31864) Long Beach, CA
B&P Code §2234. Stipulated Decision. Violated terms and conditions of a prior Board probation. Revoked, stayed, 5 years probation with terms and conditions. May 22, 1998

LARNER, ALLAN I., M.D. (A28596) San Pedro, CA
B&P Code §2234(c). Stipulated Decision. Failed to diagnose and treat breast cancer in 1 patient for almost 2 years. Suspension, stayed, 1 year probation with terms and conditions. May 1, 1998

LEO, THOMAS F., M.D. (G3453) San Jose, CA
B&P Code §725. Stipulated Decision. Excessively prescribed controlled substances, including Dilaudid, Fiorinal with Codeine, Flexeril, Percocet, Percodan, Tylenol #4 with Codeine and Vicodin ES, to 2 patients. Revoked, stayed, 4 years probation with terms and conditions. July 1, 1998

LEVINE, MARK DAVID, M.D. (G34333) Adrian, MI
B&P Code §2234(c). Stipulated Decision. Failed to adequately document in the medical records the care and treatment of a patient. Public Letter of Reprimand. June 27, 1997

LEW, BARRY GERALD, M.D. (G34168) Long Beach, CA
B&P Code §2234. Stipulated Decision. No admissions but charged with giving steroid and hormone injections to 2 patients over a 2-3 year period with little or no corresponding documentation of status or examination. Revoked, stayed, 4 years probation with terms and conditions. June 26, 1998

LEWIS, BEVERLY, M.D. (G42697) Los Angeles, CA
B&P Code §§2234, 2236, 2237, 2238. Stipulated Decision. Convicted of conspiracy to distribute and possess with intent to distribute Dilaudid. Revoked, stayed, 5 years probation with terms and conditions, including 30 days actual suspension. July 2, 1998

LIES, BERT A., Jr., M.D. (G14439) Crystal Bay, NV
B&P Code §§141(a), 2234(e). Disciplined by New Mexico based on his felony conviction for filing false income tax returns. Revoked, stayed, 5 years probation with terms and conditions. June 12, 1998

MAGTIRE, DAN I., M.D. (C41508) Carlsbad, CA
B&P Code §2234(c). Stipulated Decision. Committed acts of repeated negligence in his care and treatment of 9 patients. Revoked, stayed, 5 years probation with terms and conditions. May 28, 1998

MCKENZIE, KENNETH RAY, M.D. (C22748) San Jose, CA
B&P Code §§822, 2234(c)(d)(e), 2261, 2262. Stipulated Decision. Mental impairment affecting competency and ability to practice medicine safely; committed acts of gross negligence and incompetence in his care and treatment of 4 elderly patients; and knowingly altered the medical records of 3 patients. Revoked, stayed, 15 years probation with terms and conditions. May 13, 1998

MCMASTERS, RICHARD LOUIS, M.D. (A65192) Redondo Beach, CA
B&P Code §§480, 822. Stipulated Decision. Applicant for licensure with history of psychiatric problems associated with his obsessive compulsive disorder. Probationary License issued with 5 years probation with terms and conditions. May 15, 1998

MISHRA, ARUNA, M.D. (C39782) Woodstown, NJ
B&P Code §§141(a), 2234(e), 2236(a), 2305. Disciplined by New Jersey based on his conviction for Medicare fraud. Revoked. May 4, 1998

MO, MATTHEW KAM YU, M.D. (A37444) Alhambra, CA
B&P Code §2234(b)(d). Stipulated Decision. Improperly attached the tendons of a patient's hand to the nerves of the same hand during an emergency surgery performed on this patient's partially lacerated hand. Public Letter of Reprimand. July 10, 1997

NAHAM, RICHARD ELLIOTT, M.D. (A29562) Los Angeles, CA
B&P Code §§2234(e), 2238, 2239, 2241, 2242(a), 4227. Stipulated Decision. Felony conviction for attempted murder and possession of methamphetamine and cocaine. Revoked. May 18, 1998

OSTER, NIELS H., M.D. (G8018) Dunnsville, VA
B&P Code §141(a). Disciplined by Virginia for violating Virginia statutes regulating the practice of medicine and controlled substances. Revoked, stayed, 5 years probation with terms and conditions. July 1, 1998

PYLE, LARRY RICHARD, M.D. (A37880) Redding, CA
B&P Code §2234(c). Made inappropriate comments while performing a pelvic examination on a female patient and failed to provide a chaperon when the patient expressed concern about one. Public Reprimand. June 29, 1998

QUINI, ROMEO A., M.D. (A22971) San Diego, CA
B&P Code §2234(b)(d). Committed acts of gross negligence and incompetence in the pre and post operative care of a patient. Revoked, stayed, 4 years probation with terms and conditions. June 25, 1998

REISER, JEFFREY MARC, M.D. (G32548) Nevada City, CA
B&P Code §§822, 2234, 2234(d). Stipulated Decision. Mental illness affecting ability to practice medicine safely. Revoked, stayed, 5 years probation with terms and conditions. July 10, 1998

REISS, JEFFREY RONALD, M.D. (A36946) Panorama City, CA
B&P Code §2234(b)(c). Stipulated Decision. Committed acts of gross negligence and repeated negligence in his care and treatment of 6 patients. Revoked, stayed, 5 years probation with terms and conditions. June 15, 1998

SCHEIER, MARK, M.D. (A36345) Cerritos, CA
B&P Code §§2234(c)(d), 2266. Stipulated Decision. Committed acts of negligence and incompetence in his care and treatment of 2 patients by his failure to perform a prenatal test on 1 patient as required by California law, and by failing to obtain prenatal records and discuss the patient with his consultant prior to delivery. Revoked, stayed, 4 years probation with terms and conditions. June 18, 1998

SHEA, THEODORE WILLIAM, M.D. (G64597) Red Bluff, CA
B&P Code §2234(b)(c). Stipulated Decision. Gross negligence in his care and treatment of 3 patients. Revoked, stayed, 2 years probation with terms and conditions. May 11, 1998

SOKOLSKI, KENNETH NEIL, M.D. (G64598) Irvine, CA
B&P Code §2236(a). Stipulated Decision. Convicted of paying remuneration to another person in return for referring patients to him in violation of Welfare and Institutions Code Section 14107. Revoked, stayed, 1 year probation with terms and conditions. June 4, 1998

URANGA-MIRAMONTES, VICTOR MANUEL, M.D. (A30502) Chula Vista, CA
B&P Code §§2234(e), 2261. Stipulated Decision. Failed to see a patient during a 5 day post-operative hospitalization following a hernia repair. When this failure to see the patient was brought to his attention, he wrote 5 post-operative notes all on the same date and failed to note that they were written on the same day. Revoked, stayed, 5 years probation with terms and conditions. May 1, 1998

UY, ANTONIO VERIDIANO, M.D. (A41585) San Francisco, CA
B&P Code §§650, 2234(a)(e), 2236, 2261, 2262. Stipulated Decision. Convicted of 4 counts of mail fraud arising out of a scheme to defraud insurance companies by falsifying medical records related to persons supposedly injured in automobile accidents. Revoked, stayed, 3 years probation with terms and conditions including 60 days actual suspension. July 16, 1998

VECCHIONE, THOMAS RAY, M.D. (C30357) San Diego, CA
B&P Code §§2234(b)(c)(e),2261, 2262. Failed to prepare adequate operative reports, failed to adequately document informed consent, and altered and created false medical records involving his care and treatment of 2 patients. Revoked, stayed, 3 years probation with terms and conditions including 30 days actual suspension. June 29, 1998

WHINNERY, RANDOLPH D., M.D. (A42984) Yuba City, CA
B&P Code §2234. Stipulated Decision. Failed to provide copies of patient medical records to 3 patients in a timely manner. Public Letter of Reprimand. July 1, 1998

WOOLDRIDGE, DOUGLAS WAYNE, M.D. (G47485) Wellesley, MA
B&P Code §141(a). Stipulated Decision. Disciplined by Massachusetts for testing a patient for the presence of the HTLV-III antibody or antigen without first obtaining the patient's written informed consent. Public Letter of Reprimand. May 12, 1998

WREN, DAVID, Jr., M.D. (G22810) Richmond, CA
B&P Code §§2234(b)(c)(d)(e), 2261. Stipulated Decision. Failed to perform a lumbar laminectomy properly, failed to perform a knee replacement surgery properly and failed to perform revision surgeries on the knee properly, failed to utilize x-rays to properly diagnose and treat a patient's fractured fingers, and misrepresented on his letterhead his board certification status as an orthopedic surgeon. Revoked, stayed, 5 years probation with terms and conditions. June 29, 1998

ZUCKERMAN, SANDER W., M.D. (A28224) Sherman Oaks, CA
B&P Code §2234(c). Stipulated Decision. Committed acts of repeated negligence in his care and treatment of 1 patient. Revoked, stayed, 3 years probation with terms and conditions. July 16, 1998

DOCTORS OF PODIATRIC MEDICINE

SNYDER, ROBERT, D.P.M. (E1511) Newport Beach, CA
B&P Code §2234(c). Stipulated Decision. Committed acts of repeated negligence in his care and treatment of 1 patient. Revoked, stayed, 3 years probation with terms and conditions. July 31, 1998

WEBER, BENNIE BUD, D.P.M. (E1441) Victorville, CA
B&P Code §2234(b)(c)(d). Committed acts of gross negligence, incompetence and repeated negligence regarding the performance of an Austin bunionectomy. Revoked, stayed, 8 years probation with terms and conditions, including 90 days actual suspension. May 27, 1998. Judicial review being pursued.

PHYSICIAN ASSISTANTS

CONSIGLIO, RUSSELL ERNEST, P.A. (PA10894) Sacramento, CA
B&P Code §3502.1(b)(2). Stipulated Decision. Transmitted an order for a Schedule III controlled substance, Vicodin E.S., without an order from a supervising physician for the particular patient for whom the controlled substance prescription was transmitted. Public Reprimand. July 8, 1998

CATES, JOHN HARVEY, P.A. (PA10552) Bakersfield, CA
B&P Code §§2234(a), 2354. Stipulated Decision. Failed to comply with certain terms and conditions of his probationary license and failed to comply with certain terms of his diversion agreement. Revoked, stayed, 4 years probation with terms and conditions. June 4, 1998

DANIELS, FRANK ALBERT, P.A. (PA12213) Fontana, CA
B&P Code §§2234(a), 2238, 2239(a), 3527. Unlawful use and self-prescribing of Demerol and anabolic steroids, controlled substances, and pending criminal charges for forging a prescription and possession of marijuana. Revoked.
June 12, 1998

SURRENDER OF LICENSE WHILE CHARGES PENDING

PHYSICIANS AND SURGEONS

AVERY, BERT M., M.D. (G44664) Lawton, OK
July 20, 1998

BELL, RICHARD B., M.D. (C28844) Murfreesboro, TN
July 15, 1998

BARTSCHI, LARRY ROGER, M.D. (A26150) Chico, CA
May 29, 1998

BRUNING, JEFFREY LEE, M.D. (G39586) Fort Bragg, CA
June 16, 1998

CHARTIER, STANLEY E., M.D. (G7957) Corona, CA
June 20, 1998

CHU, PAUL P., M.D. (G61901) Kettering, OH
July 31, 1998

COLMAN, LAURENCE D., M.D. (G57582) Santa Monica, CA
June 29, 1998

COOK, DAVID C., M.D. (G5512) Whittier, CA
July 2, 1998

DUNKLEE, GEORGE M., M.D. (AFE11408) El Cajon, CA
July 14, 1998

FEIN, GERALD I., M.D. (G15020) Palos Verdes Peninsula, CA
July 31, 1998

FELDMAN, ROSS, M.D. (G7878) Malibu, CA
June 9, 1998

FISCHER, PETER BRUCE, M.D. (G18692) Downey, CA
June 17, 1998

GRAVES, JOSEPH P., M.D. (A43600) San Diego, CA
July 14, 1998

GRAY, JOHN E., M.D. (AFE21668) Las Vegas, NV
June 17, 1998

HIRSCH, BERNARD H., M.D. (C27482) Bakersfield, CA
June 17, 1998

KAMSON, ADETOKUNBO O., M.D. (A43596) Manhattan Beach, CA
May 20, 1998

LUDLOW, LESTER A., M.D. (G8762) Santa Ana, CA
July 17, 1998

MARTIN, ROBERT M., II, M.D. (A37373) Roseville, CA
May 4, 1998

MCENANY, MICHAEL TERRY, M.D. (C40535) Altoona, WI
July 14, 1998

MCKINNON, JAMES A., M.D. (C25792) Corona, CA
July 1, 1998

ROBERTON, JAMES WILLIAM, M.D. (A38099) Federal Way, WA
June 9, 1998

TRAHMS, ROBERT G., M.D. (C24815) Greenbrae, CA
July 29, 1998

TUCHSCHER, THOMAS J., M.D. (A20716) Imperial Beach, CA
May 20, 1998

WILSON, DAVID O., M.D. (A18833) Bainbridge Island, WA
June 22, 1998

PHYSICIAN ASSISTANTS

BALTIERRA, JUAN ROBLEDO, P.A. (PA10073)
June 3, 1998

JOSEPH, LLOYD, P.A. (PA13828)
June 16, 1998

REVILLE, REBECCA, P.A. (PA12084)
July 29, 1998

CORRECTION

In the April 1998 *Action Report*, the disciplinary summary of Richard Mansfield Klussman, M.D. inaccurately included that he "...engaged in the practice of medicine while his license was suspended." We apologize for the error.

Department of Consumer Affairs
Medical Board of California
1426 Howe Avenue
Sacramento, CA 95825-3236

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Business and Professions Code Section 2021(b) & (c) require physicians to inform the Medical Board in writing of any name or address change.

TOLL FREE COMPLAINT LINE: [illegible]

Medical Board:	
Applications and Examinations	(916) 263-2499
Complaints	(800) 633-2322
Continuing Education	(916) 263-2645
Diversion Program	(916) 263-2600
Health Facility Discipline Reports	(916) 263-2382
Fictitious Name Permits	(916) 263-2384
License Renewals	(916) 263-2571
Expert Reviewer Program	(916) 263-2191
Verification of Licensure/ Consumer Information	**(916) 263-2382**
General Information	(916) 263-2466
Board of Podiatric Medicine	**(916) 263-2647**
Board of Psychology	**(916) 263-2699**
Affiliated Healing Arts Professions:	
Complaints	(800) 633-2322
Midwives	(916) 263-2393
Physician Assistant	(916) 263-2670
Registered Dispensing Opticians	(916) 263-2634
For complaints regarding the following, call	**(800) 952-5210**
Acupuncture	(916) 263-2680
Audiology	(916) 263-2666
Hearing Aid Dispensers	(916) 263-2288
Physical Therapy	(916) 263-2550
Respiratory Care	(916) 263-2626
Speech Pathology	(916) 263-2666

[illegible]
Candis Cohen, Editor, (916) 263-2389

For additional copies of this report, please fax your company name, address, telephone number, and contact person to: Medical Board Executive Office, at (916) 263-2387, or mail your request to: 1426 Howe Avenue, Suite 54, Sacramento, CA 95825.

1997-98 ANNUAL REPORT
Medical Board of California

1426 Howe Avenue, Suite 54, Sacramento, CA 95825 (916) 263-2389 • www.medbd.ca.gov

Executive Summary

Enforcement: The 1997-98 fiscal year Division of Medical Quality's Enforcement Program statistics reflect another year of outstanding performance in the area of public protection. Not only has the Enforcement Program achieved all-time high levels in several categories (such as cases closed and cases referred to the Attorney General for prosecution in a single year), it also has maintained and improved the high performance levels established over the past several fiscal years, beginning in 1992-93.

The Enforcement Program also has been active in other areas. For example, based on new law sponsored by the Medical Board that added section 2310 to the Business and Professions Code, and became effective January 1, 1998, the Division automatically has suspended the license of several California physicians whose licenses were revoked or suspended by another state. This public safety activity is expected to increase in the 1998-99 fiscal year.

Licensing: In addition to maintaining existing programs, in the last fiscal year the Division of Licensing has been involved in evaluating and regulating newer trends in medical practice. Since over 85% of surgeries in the U.S. are now performed in outpatient clinical settings, the Division is developing tools for guaranteeing that such surgeries are carried out in facilities which maintain the same high standards for health and safety as surgery performed in more traditional hospital settings.

Reacting to the frustrations of international medical graduates over the difficulties involved in securing postgraduate training in the U.S., the Division has published a list of resources and their web sites in the Medical Board's quarterly newsletter, the *Action Report*, detailing what an international medical school graduate should know in order to successfully apply to an ACGME postgraduate training program. This information also is available on the Board's web site at www.medbd.ca.gov.

Special Projects: On August 22-23, 1997 the Medical Board hosted a Colloquium on Alternative Medicine in San Diego. In light of increasing use of unconventional therapies by consumers, the Board wishes to stay current with recent trends in complementary medicine. The Colloquium was oriented toward a review of structured research programs which are underway. The commentators supported the position that if alternative medicine holds any promise, it will be most useful once proven by scientific research. Public comment also was taken; most speakers were either consumers or medical care practitioners interested in various alternative medicine therapies.

On October 1, 1997 the Medical Board, as required by law, submitted to the Legislature a comprehensive Sunset Review Report. The Report, along with testimony by Board members and interested parties, served as the foundation for consideration by the Joint Legislative Sunset Review Committee as to whether the Medical Board should continue to exist in its current form, or if changes were necessary to improve the Board's consumer-protection operations. The Committee acted to endorse the Board's role in the administration of the Medical Practice Act.

Physician and Surgeon Valid Licenses by County

Alameda	3,450	Inyo	43	Monterey	749	San Luis Obispo	598	Trinity	15		
Alpine	1	Kern	887	Napa	406	San Mateo	2,249	Tulare	443		
Amador	55	Kings	115	Nevada	190	Santa Barbara	1,077	Tuolumne	126		
Butte	411	Lake	73	Orange	7,181	Santa Clara	4,946	Ventura	1,425		
Calaveras	38	Lassen	49	Placer	561	Santa Cruz	544	Yolo	463		
Colusa	10	Los Angeles	23,893	Plumas	24	Shasta	405	Yuba	64		
Contra Costa	2,217	Madera	82	Riverside	2,049	Sierra	3				
Del Norte	45	Marin	1,297	Sacramento	2,995	Siskiyou	64	**California Total**			
El Dorado	224	Mariposa	16	San Benito	29	Solano	680	**80,341**			
Fresno	1,491	Mendocino	196	San Bernardino	2,912	Sonoma	1,145	**Out of State Total**			
Glenn	11	Merced	227	San Diego	7,367	Stanislaus	684	**25,187**			
Humboldt	276	Modoc	4	San Francisco	4,691	Sutter	150	**Valid Licenses**			
Imperial	117	Mono	25	San Joaquin	798	Tehama	55	**105,528**			

Mission Statement 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.

Licensing Activity

	FY 96-97	FY 97-98
Physician Licenses Issued		
Federation Licensing Exam (FLEX)	2,738	2,867
National Board Exam (NBME)	760	745
Reciprocity with other states	76	72
Total new licenses issued	**3,574**	**3,684**
Renewal licenses issued—with fee	47,282	47,599
Renewal licenses—fee exempt[1]	4,326	4,445
Total licenses renewed	**51,608**	**52,044**
Physician Licenses in Effect		
California Address	79,048	80,341
Out-of-State	24,998	25,187
Total	**104,046**	**105,528**
Licensing Examination Activity		
United States Medical Licensing Exam (USMLE)		
Applicants passing USMLE exam	2,118	2,065
Applicants failing USMLE exam	347	420
Total	**2,465**	**2,485**

	FY 96-97	FY 97-98
Oral Exam		
Applicants passing oral exam	1,080	1,168
Applicants failing oral exam	37	25
Total	**1,117**	**1,193**
Statement of Issues to Deny License		
Filed	4	4
Upheld/Application Denied	2	3
Denied/App. Granted Probationary Cert.	2	2
Stipulation/Probationary Cert. Granted	1	2
Midwifery Licensing Program		
Licenses Issued	37	41
Licenses In Effect	40	81
Accrediting Agencies for Outpatient Surgery Settings		
Approvals Issued	4	1
Approvals In Effect	4	5

[1] *Includes physicians with non-practicing license status (i.e., disabled, inactive, and military).*

Verification Activity Summary

	FY 96-97	FY 97-98
License Status Verifications		
Phone Verifications	180,109	229,984
On-Line Access Verifications	324,106	360,547
Written Verifications	119,830	106,633
Verification Totals	**627,746**	**697,164**
Authorized Users—On-Line Access Verifications	415	369
Non-Verification Telephone Calls	36,945	60,001

	FY 96-97	FY 97-98
Certification Letters and Letters of Good Standing	5,270	7,489
Fictitious Name Permits		
Issued	814	793
Renewed	3,557	3,891
Total Number of Permits in Effect	7,875	7,804
Continuing Medical Education		
CME Audits	815	791
CME Waivers	316	367

Report Verifications*

	FY 96-97	FY 97-98
Disciplinary reports mailed to health facilities upon written request pursuant to B&P Code §805.5	1,062	823
Adverse Actions reported to the NPDB[1]	422	381
NPDB reports received from insurance companies or self-insured individuals/ organizations	1,164	1,347

		FY 96-97	FY 97-98
B&P Code §805 reports of Health Facility Discipline Received:	Original	137[2]	110
	Follow up	33	1
	Total Reports Received	**170**	**111[3]**

[1] *NPDB = National Practitioner Data Bank*

[2] *Includes 130 reports for MDs, 2 for podiatrists, and 5 for psychologists.*

[3] *Includes 110 reports for MDs and 1 for a psychologist.*

* *Reported by Enforcement Program.*

Division of Licensing

Evaluating both the educational credentials and medical proficiency, through written and oral examinations, the Division licenses physicians and surgeons, midwives, registered dispensing opticians and research psychoanalysts in California. Over 3,600 new physicians and surgeons and 41 midwives were issued licenses, and 95 registered dispensing opticians and one research psychoanalyst were issued registrations by the Division during Fiscal Year 1997-1998.

As part of its oversight responsibilities, the Division conducted site inspections of the University of California, Irvine College of Medicine and the University of California, Davis School of Medicine. These institutions participate in postgraduate fellowship training programs and faculty appointment programs. Both schools were found to be in compliance with all aspects of Sections 2111 and 2113 of the California Business and Professions Code.

Following a March 1998 site inspection, the Division voted unanimously to approve the American University of the Caribbean, recognizing that its medical school graduates are adequately trained to meet California standards. Inspections are scheduled at four schools in the Philippines early next calendar year.

Section 2168 of the California Business and Professions Code was implemented in 1997-1998 to issue Special Faculty Permits to eminent clinical faculty from out of state for research, medical advancement, and educational progress. This academic permit is restricted to medical practice only in a California medical school. Regulations and the application process are being developed.

The Division is involved in several ongoing projects, including phasing out the current oral examination for licensure. Computer-based testing of the USMLE exam also is being phased in and will be administered beginning in 1999. This three-step examination is used to provide a common evaluation system for individuals applying for licensure in the U.S.

The Division verifies the license status of physicians to the public, health provider organizations, and other state licensing agencies. AB 103 (Figueroa) passed in 1997, requiring increased reporting about physicians to the Board and the posting on the Internet of arbitration awards and certain physician disciplinary reports by hospitals.

Affiliated Healing Arts Professions Licenses Issued

	FY 96-97	FY 97-98
Acupuncturist	585	449
Audiologist	61	79
Hearing Aid Dispenser	219	384
Physical Therapist	844	859
Physical Therapy Assistant	454	307
Electroneuromyographer	0	0
Kinesiologic Electromyographer	2	4
Physician Assistant	273	328
Physician Asst. Supervisor	1,355	1,608
Doctor of Podiatric Medicine	150	114
Psychologist	530	499
Psychologist Assistant	749	712
Registered Dispensing Optician Firm	120	90
Contact Lens Dispenser	28	44
Spectacle Lens Dispenser	285	209
Research Psychoanalyst	6	1
Respiratory Care Practitioner	694	702
Speech Pathologist	477	437
Total Licenses Issued	**6,832**	**6,826**

Affiliated Healing Arts Professions Licenses In Effect*

	FY 96-97	FY 97-98
Acupuncturist	4,047	4,404
Audiologist	1,238	1,296
Hearing Aid Dispenser	1,594	1,653
Physical Therapist	14,959	15,358
Physical Therapy Assistant	3,767	3,950
Electroneuromyographer	33	32
Kinesiologic Electromyographer	27	30
Physician Assistant	2,945	3,166
Physician Asst. Supervisor	8,850	9,547
Doctor of Podiatric Medicine	1,913	1,928
Psychologist	11,448	11,776
Psychologist Assistant	1,774	1,683
Registered Dispensing Optician Firm	1,395	1,391
Contact Lens Dispenser	584	588
Spectacle Lens Dispenser	2,271	2,259
Research Psychoanalyst	69	68
Respiratory Care Practitioner	13,230	13,409
Speech Pathologist	7,726	8,100
Total Licenses In Effect	**77,766**	**80,638**

* *Reflects valid licenses only; does not reflect any restricted license categories (delinquent, military, inactive, suspended, temporary, etc.).*

Complaints Received Based Upon Reports Required by Law†

Physicians & Surgeons

	FY 96-97	FY 97-98
Medical Malpractice		
Insurers		
B&P Code §§801 & 801.1	1,003	1,049
Attorneys or Self-Reported or Employers		
B&P Code §§802 & 803.2	181	213
Courts		
B&P Code §803	23	23
Total Malpractice Reports	**1,207**	**1,285**
Coroners' Reports		
B&P Code §802.5	7	41
Criminal Charges & Convictions		
B&P Code §802.1 *(effective 1-1-96)* & §803.5	38	26
Health Facility Discipline		
Medical Cause or Reason		
B&P Code §805	130	110

Affiliated Healing Arts Professionals

	FY 96-97	FY 97-98
Medical Malpractice		
Insurers		
B&P Code §§801 & 801.1	8	10
Attorneys or Self-Reported or Employers		
B&P Code §§802 & 803.2	3	4
Courts		
B&P Code §803	1	0
Total Malpractice Reports	**12**	**14**
Coroners' Reports		
B&P Code §802.5	0	0
Criminal Charges & Convictions		
B&P Code §803.5	0	0
Health Facility Discipline		
Medical Cause or Reason		
B&P Code §805	7	1

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Division of Medical Quality Action Summary

	94-95	95-96	96-97	97-98
Complaints/Investigations[1]				
Complaints Received	11,465	11,497	10,123	10,816
Complaints Closed by CCICU†	11,058	9,751	8,161	8,657
Investigations				
Cases Opened	2,041	1,998	2,039	2,154
Cases Closed †	1,988	2,043	2,255	2,423
Cases referred to the AG	415	510	567	676
Cases referred to DAs/CAs	75	68	47	81

[1] *Some cases closed were opened in a prior fiscal year.*

Administrative Filings†				
Interim Suspensions	14	28	33	32
Temporary Restraining Orders	5	1	4	1
Automatic Suspension Orders[2]	5	8	13	10
Statement of Issues to deny application	4	2	4	4
Petition to Compel Mental Exam	11	16	4	13
Petition to Compel Competency Exam	4	4	11	9
Petition to Compel Physical Exam	0	8	2	6
Accusation/Petition to Revoke Probation	353	262	296	391
Total Administrative Filings	**396**	**329**	**367**	**466**

[2] *Includes Automatic Suspension Orders per section 2236.1 B&P Code, license restrictions per section 23 Penal Code, and out-of-state suspension orders per section 2310 B&P Code effective 1/1/98.*

Administrative Actions†				
Revocation	65	62	49	47
Surrender (in lieu of Accusation or with Accusation pending)	62	52	87	86
Suspension Only	2	1	0	0
Probation with Suspension	34	29	27	19
Probation	141	129	112	108
Probationary License Issued	3	1	3	4
Public Reprimand	25	67	39	50
Other decisions (e.g., exam required, education course, etc.)	21	4	23	69
Total Administrative Actions	**353**	**345**	**340**	**383**
Referral and Compliance Actions				
Citation and Administrative Fines Issued[3]	57	152	214	288
Physicians Called in for Medical Review	37	44	25	19
Physicians Referred to Diversion Program† [4]	18	19	44	33
Total Review & Referral Action	**112**	**215**	**283**	**340**

[3] *Citation and Fine authority effective May 1994.*

[4] *Diversion Program referrals are made pursuant to Senate Bill 779 (effective 1-1-96).*

Other Administrative Outcomes				
Accusation/Statement of Issues Withdrawn[5]	69	67	57	80
Accusation/Statement of Issues Dismissed	9	12	11	8
Statement of Issues Granted (Lic. Denied)	3	5	2	3
Statement of Issues Denied (Lic. Granted)	3	1	2	2
Petitions for Penalty Relief [6] granted	20	17	19	29
Petitions for Penalty Relief [6] denied	15	16	11	20
Petition to Compel Exams granted	37	16	15	27
Petition to Compel Exams denied	0	2	0	3

[5] *Accusations withdrawn for the following reasons: physician passed a competency exam; physician met stipulated terms and conditions; physician was issued a citation/ fine instead; physician died; etc.*

[6] *Penalty Relief includes Petitions for Reinstatement, Petitions for Modification of Penalty, and Petitions for Termination of Probation.*

† *Information required by Business and Professions Code section 2313.*

DIVISION OF MEDICAL QUALITY

As previously reported to the Legislature, in the 1992-93 fiscal year, the Medical Board of California (MBC) took 149 disciplinary actions against physicians. About two years later, in the 1994-95 fiscal year, with almost the same basic authorized investigator staffing, MBC took 353 disciplinary actions. This was a 137% increase over the 1992-93 performance in just two years, which provided a level of public protection effectiveness not previously attained in the history of the Medical Board.

More important, MBC's Division of Medical Quality has developed the operational structure which has sustained this high performance level every year since then (i.e., 345 actions in 1995-96 and 340 actions in 1996-97). Further, despite continuing medical record procurement difficulties, the 1997-98 fiscal year MBC performance figures include 383 disciplinary actions (the highest ever taken in a single year by the Division of Medical Quality) ranging from license revocations and surrenders to probation and public reprimand.

The 1997-98 performance figures cited above are augmented by additional administrative actions which reflect the quality of services performed by the Medical Board's Enforcement Program. The administrative citation and fine program produced 288 citations, compared to last year's record number of 214.

Additionally, MBC has vigorously pursued those special cases in which a physician presents an immediate risk to public health and safety via interim suspension orders (ISO) or temporary restraining orders (TRO). In the 1996-97 fiscal year, the Board sought and obtained more of these suspension or restraining orders than any time in its prior history (37 orders in a single year). MBC maintained this high performance pace with 33 ISO or TRO orders obtained in the 1997-98 fiscal year. Also, in the 1997-98 fiscal year, the Enforcement Program referred a record number of cases (676) to the Office of the Attorney General for administrative prosecution.

As indicated above, it is important to emphasize that MBC's investigator staffing has been basically the same for the last six years, but the volume of consumer complaints has increased from roughly 6,700 in 1992-93 fiscal year to an average of 10,700 over the past four fiscal years. This shows that, in the face of increased complaint volume, MBC Enforcement Program staff have strived to find new means and methods to keep pace with the increased workload and ensure efficient, effective operations in our demanding public protection environment.

To meet the high professional standards of MBC investigators, the Enforcement Program staff have recruited, tested, hired and retained only the most qualified investigators.

COMPLAINTS RECEIVED†

		Fraud	Health & Safety [1]	Non-Jurisdictional [2]	Competence/ Negligence [3]	Other Category	Personal Conduct [4]	Unprofessional Conduct [5]	Unlicensed/ Unregistered	Total
Public	MD	132	212	448	4,810	1	38	1,281	119	7,041
	AH	23	4	31	265	0	5	256	55	639
B&P Code	MD	3	9	0	1,364	0	35	51	2	1,464
Section 800[6]	AH	0	0	0	12	0	0	3	0	15
Licensee or	MD	17	15	30	67	1	12	97	21	260
Professional Group[7]	AH	3	3	2	16	0	3	32	23	82
Governmental	MD	37	87	22	976	40	147	405	127	1,841
Agency[8]	AH	21	9	1	9	5	26	45	59	175
Anonymous/	MD	11	26	16	38	0	18	60	41	210
Miscellaneous	AH	1	1	0	2	0	2	14	22	42
Subtotals	**MD**	**200**	**349**	**516**	**7,255**	**42**	**250**	**1,894**	**310**	**10,816**
	AH	**48**	**17**	**34**	**304**	**5**	**36**	**350**	**159**	**953**
Grand Totals		**248**	**366**	**550**	**7,559**	**47**	**286**	**2,244**	**469**	**11,769**

MD = Medical Doctors

AH = Affiliated Healing Arts Professionals (includes: podiatrists, physician assistants, psychologists, dispensing opticians, and licensed midwives).

1 *Health and Safety complaints, e.g. excessive prescribing, sale of dangerous drugs, etc.*

2 *Non-Jurisdictional complaints are not under the authority of the Board, and are referred to other agencies such as the Department of Health Services, Department of Insurance, etc.*

3 *Competence/Negligence complaints are related to the quality of care provided by licensees.*

4 *Personal Conduct complaints, e.g. licensee self-use of drugs/alcohol, conviction of a crime, etc.*

5 *Unprofessional Conduct complaints include sexual misconduct with patients, discipline by another state, failure to release medical records, etc.*

6 *"B&P Code §800" includes complaints initiated based upon reports submitted to the Medical Board by hospitals, insurance companies and others, as required by law, regarding instances of health facility discipline, malpractice judgments/settlements, or other reportable activities.*

7 *"Licensee or Professional Group" includes the following complaint sources: Other Licensee, Society/Trade Organization, and Industry.*

8 *"Governmental Agency" includes the following complaint sources: Internal, Law Enforcement Agency, Other California State Agency, Other State, Other Unit of Consumer Affairs, and Federal or Other Governmental Agency.*

† *Information required by Business and Professions Code section 2313.*

Business & Professions Code §2313—Additional Data Elements

1. Additional data for Temporary Restraining Orders (TRO) and Interim Suspension Orders (ISO):

	Orders Sought: TRO/ISO	Orders Granted: TRO/ISO
Mental/Physical Illness	15	11
Drug Prescribing Violations	2	1
Sexual Misconduct	8	4
Self Abuse of Drugs or Alcohol	9	8
Aiding/Abetting Unlicensed Practice	2	1
Gross Negligence/Incompetence	10	4
Conviction of a Crime	5	4
Total:	**51**	**33**

NOTE: Some orders granted were sought in prior fiscal year.

2. The number and type of action which resulted from cases referred by the state Department of Health Services pursuant to §14124 of the Welfare and Institutions Code, relating to suspension of provider status for state medical assistance:

All Department of Health Services (DHS) notifications of Medi-Cal provider suspensions were added to existing MBC files because the basis for the DHS action (e.g. MBC license revocation, US Dept. of Health and Human Services suspension of Medicare provider privileges, etc.) was already reported or known to MBC. Because DHS suspension of a provider's Medi-Cal privileges results from action already taken by another agency, no additional MBC actions result from these DHS notifications.

3. Consumer inquiries and complaints:

Consumer inquiries	83,869
Jurisdictional inquiries	46,127
Complaint forms sent	16,480
Complaint forms returned by consumers	5,768

4. Number of completed investigations referred to the Attorney General's Office awaiting the filing of an accusation as of June 30, 1998:

Physician and Surgeon	151
Affiliated Healing Arts Professionals	30

5. Number of probation violation reports sent to the Attorney General[1]:

	MD	AH	Total
FY 96-97	20	6	26
FY 97-98	31	7	38

	MD	AH	Total
6. Petitions to Revoke Probation Filed:	25	5	30
7. Dispositions of Probation Filings:			
Additional Suspension or Probation	4	2	6
Probation Revoked or License Surrendered	10	2	12
Petition Withdrawn/Dismissed	1	1	2
8. Petitions for Reinstatement of License:			
Filed	10	5	15
Granted	5	0	5
Denied	5	2	7

9. Average and median time (calendar days) in processing complaints during the fiscal year, for all cases, from date of original receipt of the complaint, for each stage of discipline, through completion of judicial review:

	FY 96-97 Avg.	FY 96-97 Median	FY 97-98 Avg.	FY 97-98 Median
(a) Complaint Unit Processing	64	15	56	21
(b) Investigation	336	230	313	217
(c) Attorney General Processing to preparation of an accusation	134	97	110	74
(d) Other stages of the legal process (e.g. after charges filed)	508	421	448	307

10. Investigator caseloads as of June 30, 1998:

Enforcement Field Operations Caseload:	Statewide	Per Investigator
Active Investigations	1,571	23
AG Assigned Cases[2]	580	8
Probation Unit Caseload:		
Monitoring Cases[3]	594	66
Active Investigations	78	9
AG Assigned Cases[2]	51	6

[1] *These are in addition to the 676 MD and 93 AH cases referred to the Attorney General reported in the Enforcement Action Summary.*

[2] *These cases are at various stages of AG processing, and may require supplemental investigative work such as subpoena service, interviewing new victims or witnesses, testifying at hearings, etc.*

[3] *173 additional monitoring cases were inactive because the probationer is out of state as of June 30, 1998.*

11. Number and type of MD & AH action taken by case type in FY 97-98	Revocation	Surrender	Probation With Suspension	Probation	Probationary License Issued	Public Reprimand	Other Action	Total Actions by Case Type
Negligence	16 (14)	35 (33)	3 (2)	58 (52)	0	17 (17)	51 (48)	**180 (166)**
Inappropriate Prescribing	2 (2)	5 (5)	3 (2)	9 (9)	0	4 (4)	5 (5)	**28 (27)**
Unlicensed Activity	0	0	1 (1)	1 (1)	0	2 (2)	2 (1)	**6 (5)**
Sexual Misconduct	11 (3)	18 (10)	2 (2)	2 (1)	1 (0)	2 (2)	1 (1)	**37 (19)**
Mental Illness	4 (4)	10 (8)	1 (1)	5 (5)	1 (1)	1 (1)	3 (2)	**25 (22)**
Self-use of drugs/alcohol	7 (4)	8 (7)	3 (1)	10 (8)	2 (2)	2 (2)	3 (3)	**35 (27)**
Fraud	4 (4)	3 (3)	2 (2)	6 (4)	0	2 (2)	2 (2)	**19 (17)**
Conviction of a crime	11 (10)	10 (7)	6 (6)	17 (15)	1 (1)	0	1 (0)	**46 (39)**
Unprofessional Conduct[1]	7 (6)	15 (13)	2 (2)	12 (8)	0	21 (20)	13 (7)	**70 (56)**
Miscellaneous violations	0	0	0	5 (5)	0	0	0	**5 (5)**
Total Actions by Discipline Type (Physician only)[2]	**62 (47)**	**104 (86)**	**23 (19)**	**125 (108)**	**5 (4)**	**51 (50)**	**81 (69)**	**451 (383)**

[1] Many of the case types classified as "Unprofessional Conduct" are reciprocal action based upon discipline by another state.
[2] Figures in parentheses represent physician discipline only for each category. Figures outside parentheses represent combined MD & AH actions.

Enforcement Action Summary For Affiliated Healing Arts

	FY 96-97	FY 97-98
Complaints/Investigations		
Complaints Received	1,008	953
Complaints Closed by CCICU†	772	708
Investigations		
Cases Opened	275	240
Cases Closed†	305	287
Cases referred to the AG	87	93
Cases referred to DAs/CAs	13	14
Administrative Filings†		
Interim Suspensions	3	3
Automatic Suspension Orders[1]	0	1
Statement of Issues to Deny Application	10	6
Petition to Compel Mental Exam	0	1
Petition to Compel Physical Exam	0	1
Accusation/Petition to Revoke Probation	55	49
Total Administrative Filings	**68**	**61**

[1] *Includes Automatic Suspension Orders per section 2236.1 B&P Code and license restrictions per section 23 Penal Code.*

Administrative Actions†		
Revocation	19	15
Surrender (in lieu of Accusation or with Accusation pending)	16	18
Probation with Suspension	7	4
Probation	24	17
Probationary License Issued	8	1
Public Reprimand	1	1
Other decisions (e.g., exam required, education course, etc.)	10	12
Total Administrative Actions	**85**	**68**
Referral and Compliance Actions		
Citation and Administrative Fines Issued	13	16
Office Conferences Conducted	9	4
Professionals Referred to Diversion Program†	0	0
Total Review & Referral Action	**22**	**20**
Other Administrative Outcomes		
Accusation/Statement of Issues Withdrawn	7	12
Accusation/Statement of Issues Dismissed	0	1
Statement of Issues Granted (Lic. Denied)	3	0
Statement of Issues Denied (Lic. Granted)	9	1
Petitions for Penalty Relief granted[2]	2	5
Petitions for Penalty Relief denied[2]	0	4
Petition to Compel Mental Exam granted	0	1
Petition to Compel Physical Exam granted	0	1

[2] *Penalty Relief includes Petitions for Reinstatement, Petitions for Modification of Penalty, and Petitions for Termination of Probation.*

† *Information required by Business and Professions Code section 2313.*

Diversion Program

The Board's Diversion Program for impaired physicians serves a dual role in the Division of Medical Quality's mission by helping to protect the public while facilitating the rehabilitation of physician participants. The Physician Diversion Program protects the public by closely monitoring physicians who are impaired as the result of alcohol and other drug addictions or a mental disorder. Concurrently, it provides physicians who suffer from substance abuse-related disorders an opportunity for rehabilitation and ongoing recovery.

The Diversion Program, created by statute in 1980 as an alternative to discipline by the Board, allows participants, when appropriate, to continue the practice of medicine. Both Board-referred and self-referred candidates can participate if deemed eligible by Diversion Evaluation Committees. These committees are composed of three physicians and two public members with expertise in alcohol and other drug addiction or mental disorders. Participation by self-referred physicians, who have no Board action, is completely confidential from the disciplinary arm of the Board. Currently, 72% of participants are self-referred.

A physician can be placed in the Diversion Program in lieu of discipline if the physician's violation(s) stem mainly from the illness of alcoholism or other drug addiction, and no violation involves actual harm to the public or to patients. Thirty-three physicians were diverted from disciplinary action in Fiscal Year 97-98 and referred to the Diversion Program.

Since January 1, 1997, under B&P Code §821.5, the Diversion Program has been monitoring the progress of peer review body formal investigations of physicians who might be disabled by mental or physical illness and pose a threat to patient care. During the first 18 months of implementation, 26 such investigations were reported to the Diversion Program.

The Board has appointed a Diversion Task Force to closely examine the Diversion Program, its policies and operations in the coming year.

Activity[1]	
Beginning of fiscal year	213
Accepted into program	61
Completions:	
Successful	37
Unsuccessful	20
Active at end of year	223
Applicants[2]	55
Out-of-state-monitored California licentiates	19

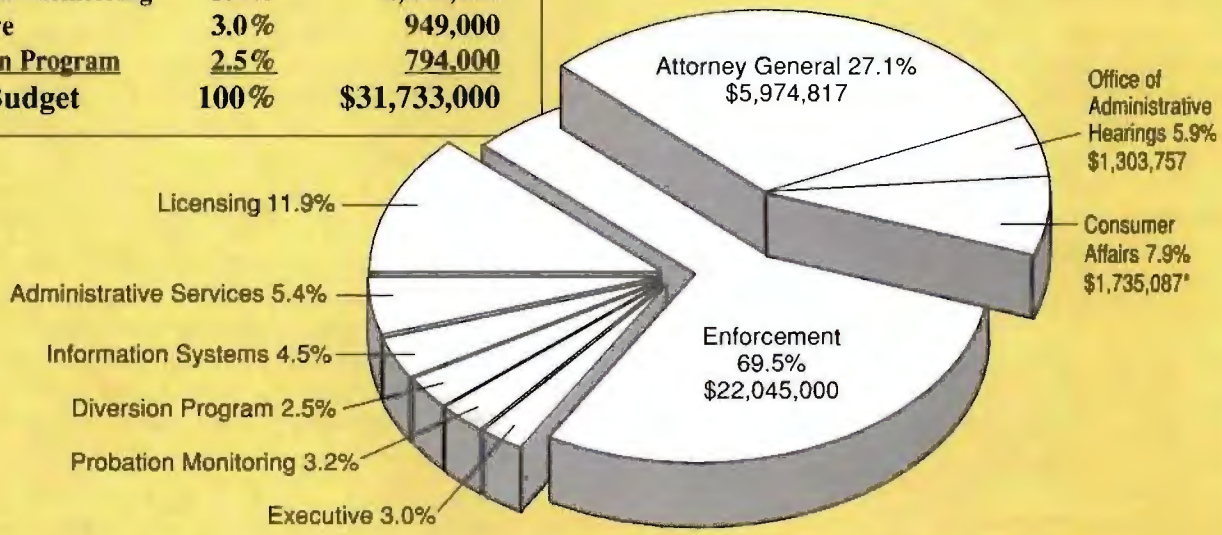
Type of Impairment		
	No.	**%**
Alcohol	56	25
Other drugs	83	37
Alcohol & other drugs	71	32
Mental illness	7	3
Mental illness & substance abuse	6	3
Total	**223**	**100**

[1] *These statistics include podiatrists.*

[2] *Applicants are participants who either 1) have not been seen by a Diversion Evaluation Committee or 2) have not yet signed a Diversion Agreement.*

Medical Board of California
1997-1998 Fiscal Year Budget Distribution

Enforcement	69.5%	$22,045,000
Licensing	11.9%	3,771,000
Administrative Services	5.4%	1,728,000
Information Systems	4.5%	1,439,000
Probation Monitoring	3.2%	1,007,000
Executive	3.0%	949,000
Diversion Program	2.5%	794,000
Total Budget	100%	$31,733,000



NOTE: *Total amount (allocated to all programs) paid to Department of Consumer Affairs = $2,611,322*

** Amount to Department of Consumer Affairs allocated to the enforcement program only.*

Medical Board of California
1997-1998 Fiscal Year
Sources of Revenue

Physician and Surgeon Renewals	82.7%	$27,747,000
Applications and Examinations	9.7%	$3,260,000
Initial License Fees	4.4%	$1,489,000
Other Regulatory Fees, Delinquency/Penalty/ Reinstatement Fees, Miscellaneous	3.2%	$1,071,000
Total	100%	$33,567,000