

Action Report

Medical Board of California

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Medical Board of California Meetings

2005

May 5-6
San Francisco

July 28-29
Sacramento

November 3-4
San Diego

All meetings are open
to the public.

The Fight Against Workers' Compensation Fraud

Department of Industrial Relations/Division of Workers' Compensation

Workers' compensation fraud is a drain on California's economy. Workers' compensation fraud harms employers by contributing to the high cost of workers' compensation insurance and self-insurance and it harms employees by undermining the perceived legitimacy of all workers' compensation claims.

To help promote awareness of the need to eliminate fraud in the workers' compensation system, the Legislature enacted Labor Code section 3822 to require the Administrative Director of the Division of Workers' Compensation to provide every employer, claims adjuster, third party administrator, physician and attorney who participates in the workers' compensation system, an annual notice warning the recipient against committing workers' compensation fraud, and advising of the penalties for such fraud.

Workers' compensation fraud is not limited to claimant fraud. The workers' compensation

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Caution: U.S. DEA Issues Interim Policy on Prescribing Schedule II Controlled Substances

The Drug Enforcement Administration (DEA) issued an "Interim Policy Statement" in the November 16, 2004 Federal Register regarding the issuance of multiple prescriptions for Schedule II controlled substances. The Interim Policy Statement prohibits physicians from issuing multiple prescriptions for Schedule II controlled substances on the same day to the same patient with instructions for the pharmacy to fill some of the prescriptions on a specific date in the future.

This Interim Policy Statement supersedes information posted on DEA's Diversion Control Web site in a document entitled: "Prescription Pain Medication: Frequently Asked Questions and Answers for the Healthcare Professionals and Law Enforcement Personnel." The information on this Web site provided guidance to physicians on how to prepare the multiple Schedule II prescriptions for use by patients with chronic pain or other long-term use conditions, at future dates for up to six months. DEA now believes this information was

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THE MISSION OF THE MEDICAL BOARD OF CALIFORNIA

The mission of the Medical Board of California is to protect healthcare consumers through the proper licensing and regulation of physicians and surgeons and certain allied healthcare professions and through the vigorous, objective enforcement of the Medical Practice Act.

President's Report

In the January 2005 *Action Report*, I informed our readers of the then-upcoming hearing of the Legislature's Joint Committee on Boards, Commissions and Consumer Protection, convened to review the recommendations of the legislatively mandated Enforcement Monitor. At the hearing on January 25 Medical Board members Ron Wender, M.D., James Bolton, Ph.D., Steve Alexander, and I, along with the board's executive director, Dave Thornton, listened to the findings and conclusions of Enforcement Monitor Julie D'Angelo Fellmeth, then we each made a statement to the committee and fielded questions by committee members.

The committee was particularly interested in the implementation of a "vertical integration" plan, as recommended by the monitor and approved by the board, by which the board's investigators would work closely with deputy attorneys general from beginning to end of investigations and prosecutions. This would replace the current "hand off" method (whereby investigators investigate, and then prosecutors prosecute) and should make the board's enforcement process more efficient and quicker. This fundamental change in the board's approach to enforcement has the potential to be one of the more meaningful and productive in our history.

The enforcement monitor's 300-plus-page report contained 65 recommendations, and I was pleased to see at our last board meeting in February that enforcement staff have a grid that prioritizes 54 of them, accounts for their progress, and has proposed resolution dates for each. I am proud of the work and enthusiastic attitude of enforcement staff in implementing these often complex and difficult changes. The board shares the opinion of the staff that these changes will improve our consumer-protection performance.



Mitchell S. Karlan, M.D.
President of the Board

Of similar significance is our proposal to increase licensing renewal fees. In my last report, I detailed some of the patient-protection cutbacks made by the Medical Board in the last few years due to the state's dismal economic situation. The board has not increased renewal fees since January 1994 despite an increase in the California Consumer Price Index of at least 27 percent in that period. The board will work with the Legislature and interested parties to determine an appropriate fee level to maintain the board's public protection mandate. Without a fee increase, the board will be faced with additional cuts in services to consumers and physicians.

As I end my year as the board's president, I am pleased to note that during my five years on the board I've seen that it has consistently sought to protect the health and well being of our citizens and has supported increasing physicians' professional competence in this state. Board members do not vote on the basis of whether they are Democrats or Republicans, or whether they are physicians

...during my five years on the board I've seen that it has consistently sought to protect the health and well being of our citizens and has supported increasing physicians' professional competence in this state.

or public members. Decisions are made with honest analysis and without fear of legislative repercussions. Still, there is no better system of protection for the public and physicians than one in which physicians are judged in great part by their peers and not by some governmental agency. I strongly encourage the physician community, no matter what the

practice environment, to conduct meaningful peer review. Let us learn what we can from one another. Referral of some small number of physicians to the Medical Board will always be necessary, but patient harm can be reduced, and the careers of some physicians saved, if we are willing to honestly and forthrightly communicate with one another as professionals and colleagues dedicated first to the patient's interest.

Citation and Fine: An Alternative to an Accusation

by Joan Jerzak, Chief of Enforcement

The Board receives a variety of complaints of physician conduct ranging from dangerous practices to more technical violations of the law. Pursuing administrative action is very time consuming and extremely costly, with the cost of filing of an accusation averaging \$10,000. Prior to 1994, the Board only had the option of pursuing administrative action or criminal action for all types of violations. By not taking action for the more minor violations, the Board was unable to deter physicians from certain violations such as misleading advertising, failure to sign a death certificate in a timely manner or failure to provide medical records to patients. The Board believed there should be some middle ground to respond to these kinds of violations, thereby providing some measure of public protection, while also achieving a quick, less expensive resolution.

In 1994, pursuant to Business and Professions Code section 125.9, the Board established a system for the issuance of a citation and fine. The process is further described by regulations under Title 16, section 1364.10. Section 1364.11 lists a table of citable offenses for which the Board may issue a citation, with or without a fine.

When the Board receives a complaint alleging a minor, technical violation, Board staff contacts the reporting party to verify the information provided in the complaint and obtains any evidence which would establish a violation. If there is sufficient evidence, staff will contact the physician to obtain his or her written response to the complaint and ask the physician to provide any explanation or mitigation which may impact the issuance of a citation. When all the information is received, Board staff, including a deputy attorney general, will review the material to determine if there is a preponderance of evidence to support a determination that a violation has occurred. At this juncture, a citation may be issued. The citation is in writing and will describe the nature of the violation including specific references to the section of law which have been violated. As appropriate, the citation may contain an order of abatement (correcting the violation), fixing a reasonable time to allow for abatement of the violation. Fines imposed may range from \$100 to \$2,500.

Citations are posted on the Board's Web site upon issuance and will remain there for five years from the date of resolution. A citation is not considered discipline and is not reported to the Federation of State Medical Boards or the National Practitioner Data Bank. There is an appeals process allowed under Business and Professions Code section 125.9 which affords the physician another opportunity to provide additional input to Board representatives in a face-to-face forum called an informal conference. At this meeting, the citation can be withdrawn, the fine can be reduced or the citation and fine can be upheld. Another option provided to the physician is that he or she may request a hearing on the matter before an administrative law judge. This remedy is in addition to the informal conference.

At the February 2005 Board meeting, a public regulatory hearing was held to discuss changes to the cite and fine program. Specifically, new sections of law will be added to the citable offense table, and the maximum fine will be raised from \$2,500 to \$5,000 for certain categories of violation. The ceiling was raised pursuant to SB 362 (Figueroa, Chapter 788, Statutes of 2003); however, the maximum fine would only be imposed when: 1) the cited person has received one or more citations for the same or similar violation; or 2) the citation involves multiple violations that demonstrate a willful disregard for the law. Another change to the cite and fine program would allow for a citation to be issued to a licensee for a violation of a term or condition contained in a decision that placed the licensee on probation.

The citation and fine program, as described above, was created to allow for a less onerous resolution to less serious complaints which otherwise would result in the filing of an accusation. Physicians are encouraged to respond to any correspondence from Board staff, as such response may eliminate the need for a citation and fine. Typically, the Board is tasked with educating physicians on various laws which relate to the practice of medicine, and compliance will often negate the need for a citation. The Board's Web site — www.caldocinfo.ca.gov — "Laws & Regulations" contains the regulations governing the citation and fine process and lists the violations which are citable.

Informed Consent: What Physicians Need to Know

by Medical Board Enforcement Staff

The October 2003 issue of the *Action Report* contained a reminder to physicians that prior to the performance of a hysterectomy, physicians must obtain informed consent. This reminder concerns the general doctrine of obtaining and documenting informed consent prior to beginning any medical treatment. Informed consent is a two-step process consisting of discussion with the patient and documenting that discussion. This is especially important if there is a reasonable chance that a planned medical procedure may lead to additional intervention.

Physicians are also reminded that in addition to the specific laws governing informed consent for hysterectomies, numerous other California laws address informed consent. These laws place specific requirements on physicians to obtain informed consent for a variety of treatments and procedures. Failure to obtain informed consent may lead to an allegation of unprofessional conduct.

For years, the doctrine of informed consent has been a matter addressed by the courts. In 1972, the California Supreme Court set a legal standard in an opinion that there is a requirement for divulgence by the physician to the patient of all information relevant to a meaningful decisional process. Further, the court found that, “there is a duty of reasonable disclosure of the available choices with respect to proposed therapy and of the dangers inherently and potentially involved in each.”¹ This doctrine of obtaining informed consent applies to many medical treatments where incisions or surgical instruments are used, or during a diagnostic procedure, or in the course of experimentation (clinical trials).² Informed consent implies patient participation in medical decision-making. It is a process of communication between patient and physician that results in the patient’s authorization to undergo a specific medical procedure.³ It includes the patient being informed that the physician having the discussion may not be the physician attending to the patient during the procedure.⁴ It is the physician performing the treatment who is ultimately responsible for the disclosure and obtaining informed consent. This is not to say that a physician is required to obtain a patient’s informed consent for every procedure that is performed.

A physician is not required to obtain informed consent for simple and common procedures, e.g., taking a common blood sample.

According to the CMA’s *California Physician’s Legal Handbook*, physicians have a duty to obtain the informed consent of patients prior to performing certain medical procedures. The minimum information that must be provided includes:

- the nature of the procedure and/or recommended treatment;
- the risks, complications and expected benefits;
- the availability of alternative treatment to the treatment that is recommended (including no treatment) and the associated risks and benefits.

In addition, *Cobbs v. Grant* and the *California Physician’s Legal Handbook* note that it would behoove the prudent physician to inform the patient of all relevant information about a proposed treatment prior to obtaining the consent of the patient. This information would include:

- working or presumed diagnosis and differential diagnoses;
- the name of the procedure;
- a description of the procedure in layman's terms;
- purpose and risks of any planned tests;
- prognosis;
- an estimate of the current level of severity of the patient's condition;
- all information necessary for the patient to make an informed decision.

Potential problems for physicians arise when they perform complex procedures such as a cardiac catheterization; then during the course of the cardiac catheterization, additional procedures are performed such as renal angiograms, carotid angiograms and peripheral angiograms without the required discussion and informed consent prior to the procedure. Physicians are therefore reminded that prior to beginning procedures, they should discuss with their patients all aspects of the recommended treatment—especially any potential for additional procedures, and obtain the appropriate informed consent for each.

In addition to the general doctrine of informed consent, there are a variety of specific medical treatments, conditions and procedures for which California law addresses the issue of informed consent. These laws

(Continued on page 5)

FSMB Honors Former MBC Executive Director

by Drew Carlson, Federation of State Medical Boards

Ron Joseph, former executive director of the Medical Board of California, will receive the Distinguished Service Award from the Federation of State Medical Boards in May 2005. One of the highest honors bestowed by FSMB, the award recognizes outstanding service and leadership to FSMB and the field of medical licensure and discipline.

During Joseph's eight-year tenure, the California board developed innovative programs in providing medical care to underserved populations, establishing standards for office-based surgery, pain management, physician remediation programs and international medical school assessment. In addition, Joseph established Operation Safe Medicine, an office of investigators devoted to uncovering unlicensed practitioners, and he created one

of the nation's first programs to track down doctors who prescribe over the Internet without first examining patients.

Joseph provided invaluable support to FSMB in a number of capacities, serving on the organization's Advisory Council of Board Executives and as a member of the Editorial Committee, which provides editorial guidance for FSMB's flagship publication, the *Journal of Medical Licensure and Discipline*.

The umbrella organization for the nation's 70 state medical boards, FSMB seeks the continual improvement in the quality, safety, and integrity of healthcare through the development and promotion of high standards for physician licensure and practice.

Informed Consent *(Continued from page 4)*

place specific requirements on physicians. Some of these include the following, with the respective statute for reference:

| <u>Medical condition/procedure</u> | <u>Statute⁵</u> |
|------------------------------------|---|
| Blood transfusions | H&S Code 1645 |
| Blood test for HIV/AIDS | H&S Code 120990 |
| Cancer - Breast | H&S Code 109275, 109277 B&P Code 2257 |
| Cancer - Prostate | H&S Code 109280, 109282 |
| Gynecological treatment | H&S Code 109278 |
| Hysterectomy | H&S Code 1690, 1691 |
| Silicone Implants | B&P Code 2259 |
| Collagen Injections | B&P Code 2259.5 |
| Sperm and Ova removal | B&P Code 2260 |

In addition, the Medical Board published the "Guidelines for the Treatment of Pain"⁶ which discusses the issue of informed consent: "The physician and surgeon should discuss the risks and benefits of the use of controlled substances and other treatment modalities with the patient, caregiver or guardian. Annotation: A

written consent or pain agreement for chronic use is not required but may make it easier for the physician and surgeon to document patient education, the treatment plan, and the informed consent. Patient, guardian, and caregiver attitudes about medicines may influence the patient's use of medications for relief from pain."

When there is any potential for additional procedures after the initial procedure has begun, the physician should discuss this potential with the patient and document that discussion. California physicians also should consult the applicable statutes when treating patients for any of the above conditions, since California law may require that additional information be disclosed, such as with hysterectomies.

¹ *Cobbs v. Grant* (1972) 8 Cal.3d 229, 104 Cal. Rptr. 505

² National Cancer Institute

³ American Medical Association

⁴ There have been instances where the physician having the discussion and obtaining the requisite informed consent failed to advise the patient that another physician would perform the actual procedure.

⁵ H&S = Health and Safety Code. B&P = Business and Professions Code

⁶ *Action Report*, last printing October 2003
Web site: www.caldocinfo.ca.gov

Medical Board Recognizes Outstanding Physicians



Medical Board President Mitchell Karlan, M.D. congratulates “Dev” Gnanadev, M.D.

At its Feb. 18 meeting in Los Angeles, the Medical Board presented a plaque to Appannagari “Dev” Gnanadev, M.D., a surgeon from Colton. Dr. Gnanadev is the second individual physician to receive the award as part of the board’s program to recognize the demonstration of excellence by physicians who strive to improve access and fill gaps in the healthcare delivery system in California.

Dr. Gnanadev is the Medical Director and Chairman of the Department of Surgery at Arrowhead Regional Medical Center (ARMC). His commitment to the underserved spans 23 years of work in a public hospital

setting. In the mid-1990s, he spearheaded a grass roots campaign to win approval for a new, state-of-the-art hospital that would replace the existing county hospital, which had fallen into disrepair. In 1999, the 373-bed Medical Center in Colton opened, providing the residents of San Bernardino County with one of the most modern healthcare facilities in the world.

After suffering a heart attack in 2001, Dr. Gnanadev, having benefited from a heart-health rehabilitation program and aware that others could not afford rehabilitation, donated \$30,000 of his own money to purchase all of the exercise and medical equipment needed for a cardiac rehabilitation center in the Medical Center. He then secured the commitment of the ARMC Foundation to pay the operating costs of the program, which started in September 2003 and is free for qualifying patients. He also established a free tattoo-removal program for former gang members in 1996, and in 2003 worked to create the Inland Empire Burn Institute to aid burn victims in the Inland Empire.

The board will similarly honor a group of physicians from Sacramento at its July meeting. “Sacramento Physicians’ Initiative to Reach out, Innovate, and Teach (SPIRIT) Hernia Repair Program” is part of a non-profit organization of 40 active, volunteer physicians who seek to improve access to healthcare for Sacramento County’s working poor who do not receive benefits through their employer and who cannot afford to buy health insurance, yet who are ineligible for Medi-Cal.

Medical Board Disapproves St. Matthew’s University School of Medicine

In March 2000, St. Matthew’s University School of Medicine applied to the Division of Licensing for recognition of its medical education program in Ambergris Caye, Belize. The process of reviewing the school’s application was delayed by two unexpected events. A hurricane struck the island in October 2000, damaging the school. In 2002, the school relocated from Belize to Grand Cayman and had to reapply to document its new facilities and resources. The Division’s team was finally able to inspect the school’s facilities in May and June 2004.

On February 18, 2005, the Division of Licensing members adopted the inspection team’s recommendation and voted to disapprove St. Matthew’s University School of Medicine. As a result of the disapproval action, St. Matthew’s University students and graduates remain ineligible for training or licensure in California. St. Matthew’s University may reapply for recognition after school officials have remedied the identified deficiencies in their educational program.

The inspection team’s report is available on the Board’s Web site at www.caldocinfo.ca.gov.

Workers' Compensation Fraud

(continued from cover)

program is also victimized by fraud committed by medical providers, employers, claims adjusters and attorneys.

What Constitutes Medical Provider Fraud?

- Billing fraud
- Employing individuals to solicit new patients
- Unnecessary treatment or self-interested referrals
- Failing to report a work injury

Workers' Compensation Fraud is a Crime

Insurance Code section 1871.4 provides that it is a felony to make or cause to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying any compensation, as defined in section 3207 of the Labor Code, or present or cause to be presented any knowingly false or fraudulent written or oral material statement in support of, or in opposition to, any claim for compensation for the purpose of obtaining or denying any compensation, as defined in section 3207 of the Labor Code. It is also a crime to knowingly assist, abet, conspire with, or solicit any person in an unlawful act of workers' compensation insurance fraud.

It is also a crime to make or cause to be made any knowingly false or fraudulent material statements with the intent to discourage an injured worker from claiming benefits or pursuing a claim.

Workers' compensation fraud may be punished by imprisonment in county jail for one year, or in a state prison, for two, three, or five years, or by a fine not exceeding \$150,000 or double the value of the fraud,

whichever is greater, or by both imprisonment and fine. In addition, if someone is convicted of workers' compensation fraud, the court is required to order restitution to be paid, including restitution for any medical evaluation or treatment services obtained or provided.

Finally, Insurance Code section 1871.5 provides that any person convicted of workers' compensation fraud pursuant to section 1871.4 or section 550 of the Penal Code shall be ineligible to receive or retain any compensation, as defined in section 3207 of the Labor Code, where that compensation was owed or received as a result of a violation of section 1871.4 or section 550 of the Penal Code for which the recipient of the compensation was convicted.

Workers' Compensation Fraud is a Serious Matter

Workers' compensation fraud can increase the cost of doing business and can result in decreases (or no increases) in employee salaries, laying off employees or even going out of business. Workers' compensation fraud can also increase healthcare costs and the cost of insurance for all Californians.

If you would like to obtain more information about the issue of workers' compensation fraud, or would like to report an occurrence of workers' compensation fraud, please call the Department of Insurance Fraud Division's hotline number: (800) 927-4357. If you have Internet access, you can access the Fraud Division's Web site at: http://www.insurance.ca.gov/FRD/Frd_main.htm to obtain more information and locate the telephone number for the Fraud Division office nearest you.

Prescribing Controlled Substances

(continued from cover)

erroneous and was merely a vehicle for circumventing the prohibition on refilling Schedule II prescriptions.

The DEA has indicated it will provide a more detailed review of this issue after taking into consideration the views of the medical community. However, unless DEA changes its position, physicians must see their patients each time a prescription for a Schedule II drug is written.

The full text of the Interim Policy Statement can be viewed at www.deadiversion.usdoj.gov by clicking on "Federal Register Notices" then going to "Rules 2004."

Publications That Physicians Must Give to Patients

Various California laws require physicians to distribute mandated standardized written information to patients who are being seen for specific medical treatments. The following matrix lists the publications and under what circumstances they must be offered to patients, along with ordering information. Reference each code for a complete list of requirements.

| PUB | REQUIREMENT | ORDERING INFORMATION |
|--|--|---|
| <i>A Patient's Guide to Blood Transfusion</i> | H&S Code § 1645, Paul Gann Blood Safety Act requires physicians to provide a standardized summary of the positive and negative aspects of receiving blood from volunteers whenever there is a reasonable possibility that a blood transfusion may be necessary as a result of a medical or surgical procedure. | One-page informational sheet available in English and Spanish at no charge. Masters available online at www.medbd.ca.gov/publications.htm or by faxing a request to (916) 263-2479. Note: A revision is expected in Spring 2005 - ordering information may change. |
| <i>A Woman's Guide to Breast Cancer Diagnosis & Treatment</i> | H&S Code § 109275 requires physicians to provide a standardized summary discussing alternative breast cancer treatments and their risks and benefits to women who are being biopsied or treated for breast cancer. | Booklet is available in English and Spanish in bundles of 25 up to 2 cases (250 per case) per order at no charge. Masters are available in Chinese, Korean, Russian and Thai. Fax requests to (916) 263-2479. Available online at www.medbd.ca.gov/publications.htm |
| <i>Gynecologic Cancers...What Women Need to Know</i> | H&S Code § 109278 requires medical care providers, primarily responsible for providing patients with an annual gynecologic exam, to provide a standardized summary containing a description of the symptoms and appropriate methods of diagnoses for gynecological cancers. | Pamphlet is available in English, Spanish, Chinese and Vietnamese in bundles of 25 at no charge. For a copy of the Department of Health Services order form, call (916) 928-9217. Available online at www.dhs.ca.gov/director/owh/gcip.htm |
| <i>Professional Therapy Never Includes Sex</i> | B&P Code § 728 requires physicians, specializing in psychiatry, to provide written information on the rights and remedies for patients who have been involved sexually with their psychotherapist when the physician becomes aware that the patient had alleged sexual intercourse or sexual contact with a previous psychotherapist during the course of a prior treatment. | Booklet is available in English and Spanish. For a free copy, fax request to (916) 263-2479 or to purchase copies in bulk (25-copy minimum), contact the Office of State Publishing at (916) 445-5357. Available online at www.medbd.ca.gov/publications.htm |
| <i>Things to Consider Before Your Silicone Implant Surgery</i> | B&P Code § 2259, Cosmetic Implant Act of 1992 requires physicians to provide written information to patients considering silicone implant surgery. Physicians may substitute written information authorized for use by the federal Food and Drug Administration prepared by the manufacturer based upon the physician package insert. | Booklet is available in English in bundles of 25 at a cost of \$6.00 (inclusive). Checks must be included with the order and made payable to the Medical Board of California and mailed to: Medical Board, 1426 Howe Avenue, Suite 54, Sacramento, CA 95825. Available online at www.medbd.ca.gov/publications.htm |
| <i>What You Need to Know About Prostate Cancer</i> | B&P Code § 2248, H&S Code § 109280, Grant H. Kenyon Prostate Cancer Detection Act requires physicians to provide a standardized summary about the availability of appropriate diagnostic procedures when examining a patient's prostate gland during a physical examination. | Booklet is available in English (a Spanish translation is expected in Spring 2005) in bundles of 25 up to 2 cases (300 per case) per order at no charge. Fax requests to (916) 263-2479. Available online at www.medbd.ca.gov/publications.htm |

News from the U.S. Food and Drug Administration

FDA Drug Safety Initiative

To help promote openness and enhanced oversight within the Agency, FDA will create an independent Drug Safety Oversight Board to oversee the management of drug safety issues. The Board will consist of members from FDA and medical experts from other HHS agencies and government departments (e.g., Department of Veterans Affairs) and will consult with outside medical experts and representatives of patient and consumer groups.

As part of the Initiative, FDA will provide emerging information to doctors and patients about the risks and benefits of medicines. A Drug Watch Web Page will be designed with information about possible serious side effects or other safety risks that have the potential to alter the benefit/risk analysis of a drug and affect patient selection or monitoring decisions. In addition, consumer-friendly information sheets written especially for healthcare professionals and patients containing the most important new information for safe and effective product use, such as known and potential safety issues based on reports of adverse events, new information that may affect prescribing of the drug, and the approved indications and benefits of the drug will be available. For additional information: <http://www.fda.gov/cder/drugsafety.htm>

Warning for Medtronic Implantable Defibrillator Models

Medtronic, Inc. and FDA advised physicians about a potential battery-shortening mechanism that may occur in

a subset of implantable cardioverter-defibrillator (ICD) and cardiac resynchronization therapy defibrillator (CRT-D) models. In a letter to physicians, Medtronic reported that batteries have experienced rapid battery depletion due to this shorting action. If shorting occurs, battery depletion can take place within a few hours to a few days, after which there is loss of device function. There are no reported patient injuries or deaths.

Potentially affected models are the Marquis™ VR/DR and Maximo™ VR/DR ICDs and the InSync I/II/III Marquis™ and InSync III Protect™ CRT-D devices.

For more information:

www.fda.gov/oc/po/firmrecalls/medtronic02_05.html

Adderall XR

FDA issued a Public Health Advisory to notify healthcare professionals that Health Canada has suspended the sale of Adderall XR in the Canadian market. The Canadian action was based on U.S. post-marketing reports of sudden deaths in pediatric patients. FDA is continuing to evaluate these and other post-marketing reports of serious adverse events in children, adolescents, and adults being treated with Adderall and related products. Adderall XR is approved in the United States for the treatment of adults and pediatric patients 6-12 years old with ADHD, and Adderall, the immediate release formulation of the drug, is approved for pediatric patients with ADHD. For more information see:

For more information see:

www.fda.gov/cder/drug/infopage/adderall/default.htm



Attention Non-M.D.s

To reduce unnecessary costs, we are updating our interested-parties mailing list. If you are NOT an M.D., and you wish to continue receiving the *Action Report*, you MUST fax or mail this notice to us. Please type information or print legibly. If we do not hear from you by May 31, you will be removed from our mailing list.

The *Action Report* can be downloaded from the board's Web site www.caldocinfo.ca.gov, click on Brochures/Publications and select from Search for Publication.

Thank you.

Yes! Please keep me on the *Action Report* mailing list.

Name _____

Address _____

Attention: Janet Neves

Fax: (916) 263-2210

Medical Board of California

Information Systems Branch

1426 Howe Ave., Ste. 52, Sacramento, CA 95825

Caution Regarding Testing for Lyme Disease

Reprinted from MMWR 54(05):125

The Center for Disease Control (CDC) and the Food and Drug Administration (FDA) have become aware of commercial laboratories that conduct testing for Lyme disease by using assays whose accuracy and clinical usefulness have not been adequately established. These tests include urine antigen tests, immunofluorescent staining for cell wall—deficient forms of *Borrelia burgdorferi*, and lymphocyte transformation tests. In addition, some laboratories perform polymerase chain reaction tests for *B. burgdorferi* DNA on inappropriate specimens such as blood and urine or interpret Western blots using criteria that have not been validated and published in peer-reviewed scientific literature. These inadequately validated tests and criteria also are being used to evaluate patients in Canada and Europe, according to reports from the National Microbiology Laboratory, Public Health Agency of Canada; the British Columbia Centres for Disease Control, Canada; the German National Reference Center for Borreliae; and the Health Protection Agency Lyme Borreliosis Unit of the United Kingdom.

In the United States, FDA has cleared 70 serologic assays to aid in the diagnosis of Lyme disease. Recommendations for the use and interpretation of serologic tests have been published previously.¹ Initial testing should use an enzyme immunoassay (EIA) or immunofluorescent assay (IFA); specimens yielding positive or equivocal results should be tested further by using a standardized Western immunoblot

assay. Specimens negative by a sensitive EIA or IFA do not need further testing. Similar assays and recommendations are used in Canada.² In the European Union, a minimum standard for commercial diagnostic kits is provided by Conformité Européenne (CE) marking; application and interpretation guidelines appropriate for Europe have been published.^{3,4}

Healthcare providers are reminded that a diagnosis of Lyme disease should be made after evaluation of a patient's clinical presentation and risk for exposure to infected ticks, and, if indicated, after the use of validated laboratory tests. Patients are encouraged to ask their physicians whether their testing for Lyme disease was performed using validated methods and whether results were interpreted using appropriate guidelines.

References

- ¹CDC. Recommendations for test performance and interpretation from the Second National Conference on Serologic Diagnosis of Lyme Disease. MMWR 1995;44:590—1.
- ²Consensus Conference on Lyme Disease. Can Dis Wkly Rep 1991; 17:63—70.
- ³Wilske B, Zöller L, Brade V, et al. MIQ 12 Lyme-Borreliose. Qualitätsstandards in der mikrobiologisch-infektiologischen Diagnostik. Munich, Germany: Urban & Fischer Verlag; 2000;1—59. Guidelines available in English at <http://nrz-borrelien.lmu.de/miq-lyme/index.html>.
- ⁴Robertson J, Guy E, Andrews N, et al. A European multicenter study of immunoblotting in serodiagnosis of Lyme borreliosis. J Clin Microbiol 2000;38:2097—102.

West Nile Virus and Treatment Trials

Department of Health Services Viral and Rickettsial Disease Laboratory Branch

In 2004, California reported more West Nile Virus (WNV) cases than any other state. A total of 829 WNV infections were detected; 289 were neuroinvasive (encephalitis, meningitis, and/or acute flaccid paralysis) with 27 WNV-related fatalities. Experts predict that California will experience a large number of human cases again in 2005.

There is no proven clinical therapy for WNV infections. However, there are three on-going randomized controlled trials (RCTs) for WNV neuroinvasive disease. Very few individuals have been enrolled in any of these studies.

We encourage healthcare providers to review the protocols for the RCTs and determine if any of them are appropriate for their facility. It is important that

healthcare providers consider these protocols in advance of West Nile season.

The three clinical trials and contact information:

1. A Randomized Double-Blinded, Placebo Controlled Trial of Alpha-Interferon (Alferon) Therapy for West Nile Meningoencephalitis (Protocol WN-102). Contact: James J. Rahal, phone: (718) 670-1525; e-mail: JJR9002@nyp.org; Web site: www.Nyhq.org/posting/rahal.html
2. A Phase I/II Randomized, Placebo-controlled Trial to Assess the Safety and Efficacy of Intravenous Immunoglobulin G (Omr-IgG-am) Containing High Anti-West Nile Virus Antibody Titers in Patients With,

(continued on page 11)

CME COURSES: FULFILLING AB 487 MANDATE

Most physicians must complete a mandatory CME course in pain management and the treatment of terminally ill and dying patients by Dec. 31, 2006. This is a one-time requirement of 12 credit hours. Below are some upcoming courses.

Pain Management and End-of-Life Care

June 9-10, 2005

Fairmont Hotel, San Francisco

Sponsored and approved by
University of California, San Francisco

Contact: (415) 476-4251
www.cme.ucsf.edu

Office of CME, UCSF Box 0742,
San Francisco, CA 94143-0742

Fee: \$420 physicians;
\$350 allied health professionals

13.75 AMA PRA category 1 credits

Pain, Palliation and Politics

Pain Management and End-of-Life Care
In California's Regulatory Environment

September 9-10, 2005

San Francisco Airport Marriott Hotel

Topics include

Pharmacologic Management of Chronic Pain;
Back Pain; Cancer Pain; Headache Pain;
Musculo-skeletal Pain; Fibromyalgia;

How Law and Regulation are Enforced in California

Sponsored by California Medical Association

To register or to see additional dates for 2006,
go to CMA Web site: www.cmanet.org
or call (415) 882-3330

14 category 1 credits

Pain Management and End-of-Life Care

Cedars-Sinai Medical Center's
Department of Anesthesiology

**Offers a comprehensive
12-hour study course on CD-ROM**

Cedars-Sinai Medical Center is accredited
by the Accreditation Council for
Continuing Medical Education

Register at: <http://ab487.net/>

12 category 1 credits

Fee: \$75

Contact: Barbara Lawson, (213) 637-3703

Joint Conferences on Pain Management and Palliative Care

Series I

Thursday evenings, 5:00 – 9:30 p.m.

April 28, May 5, June 9 and 16, 2005

Location: San Diego Hospice & Palliative Care
W.M. Keck Conference Center, San Diego

Series II

Weekend event, 8:00 a.m. – 5:45 p.m.

May 21 and 22, 2005

Location: Schaetzel Center at Scripps La Jolla

Series III

Saturday mornings, 8:00 a.m. – 12:30 p.m.

October 1, 22, 29 and November 5, 2005

Location: San Diego Hospice & Palliative Care
W.M. Keck Conference Center, San Diego

Series IV

Weekend event, 8:00 a.m. – 5:45 p.m.

October 15 and 16, 2005

Location: Schaetzel Center at Scripps La Jolla

Contact:

Paula Brown, San Diego Hospice & Palliative Care
(619) 278-6314; conferences@sdhospice.org;
<http://conferences.cpsonline.info>

West Nile Virus *(continued from page 10)*

or at High Risk for, Progression to West Nile Virus (WNV) Encephalitis and/or Myelitis. Sponsored by: National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health. Contact: Walla Dempsey, phone: (301) 496-7453; e-mail: wdempsey@niaid.nih.gov; Web site: <http://www.clinicaltrials.gov/show/NCT00068055>

3. An Exploratory Study of the Safety, Tolerability, Pharmacokinetics and Potential Effectiveness of AVI-4020 Injection in Patients Presenting with Presumptive Acute Neuroinvasive West Nile Virus (WNV) Disease. Contact; Desiree Hollemon, phone: (503) 227-0554; e-mail: Dhollemon@avibio.com; Web site: www.clinicaltrials.gov/ct/show/NCT0091845

For more information about WNV in California, please visit our Web site at: <http://westnile.ca.gov>, or contact your local health department. An update on WNV in California will be published in the July issue of the *Action Report*.

ADMINISTRATIVE ACTIONS: November 1, 2004 - January 31, 2005

PHYSICIANS AND SURGEONS

AGHAZARIAN, SARKIS GARABET, M.D.
(A40572) Baltimore, MD

B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Maryland for failure to adequately diagnose and treat a serious infection in the care and treatment of 1 patient. Physician completed an educational course in the area of surgical and/or post-surgical infection. Public Reprimand. December 7, 2004

ATIGA, SCHUBERT JUSAY, M.D.
(G53756) Chula Vista, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, incompetence and repeated negligent acts in the care and treatment of 1 patient. Physician completed a clinical training program. Public Letter of Reprimand. December 22, 2004

BARRON, ADAM MICHAEL, M.D.
(G62338) Los Angeles, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, repeated negligent acts, prescribing without a medical indication and incompetence in the care and treatment of 5 patients. Surrender of license. November 12, 2004

BERTLESON, DOUGLAS EUGENE, M.D.
(G42625) Pasadena, CA

B&P Code §§2234(e), 2261. Committed acts of dishonesty and making false statements by providing misstatements, omissions and misrepresentations on his application for clinical privileges and medical staff appointment. Revoked. January 28, 2005. Judicial review pending.

BESMAN, ANATOLE JULIUS, M.D.
(A89421) Vallejo, CA

B&P Code §480(a)(1)(2)(3)(c). Stipulated Decision. Failed to disclose a misdemeanor conviction on his application for licensure with the Medical Board of California. Probationary license issued, placed on 2 years probation with terms and conditions including, but not limited to, completing an ethics course. November 24, 2004

BHASIN, SUNIL KUMAR, M.D.
(G67327) San Bernardino, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, incompetence, dishonesty, repeated negligent acts, excessive treatment, alteration of medical records, making false

Explanation of Disciplinary Language and Actions

“Effective date of decision”

— Example: “January 10, 2005” 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 is 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 of 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” — To resolve a disciplinary action, the licensee has given up his or her license — subject to acceptance by the board.

“Suspension from practice” — The licensee is prohibited from practicing for a specific period of time.

statements in documents, and failing to maintain adequate and accurate medical records in the care and treatment of several patients. Surrender of license. December 16, 2004

**BHASKARA, NAGARAJA GUPTA, M.D.
(A36798) Lancaster, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, incompetence and unprofessional conduct in the care and treatment of 1 patient. Surrender of license. November 30, 2004

**BRADUS, RICHARD JAY, M.D.
(G51439) San Francisco, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with unprofessional conduct, repeated negligent acts and incompetence in the care and treatment of 2 patients. Physician completed a clinical training program. Public Reprimand. December 16, 2004

BRYCE, WILLIAM C., M.D. (A28255) Azusa, CA

B&P Code §2234. Violated the terms and conditions of his board-ordered probation by failing to complete a clinical training program and failing to obtain a practice monitor. Revoked. December 17, 2004

**BUXTON, JOHN ARTHUR, M.D.
(G34570) Bakersfield, CA**

B&P Code §§2234(b)(d), 2266. Stipulated Decision. Committed acts of gross negligence and incompetence by failing to timely act on the results of an abnormal biopsy report and failed to maintain adequate and accurate medical records. Physician completed a medical record keeping course. Public Reprimand. December 7, 2004

**CARMALT, E. DUANE, M.D.
(G23973) Topanga, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, repeated negligent acts and incompetence in the care and treatment of 2 patients. Physician must complete a clinical training program. Public Reprimand. January 24, 2005

**CATALANELLO, MARK JAY, M.D.
(A49853) Missoula, MT**

B&P Code §§141(a), 2305. Disciplined by Montana for possessing and abusing illegal drugs and alcohol and driving while under the influence. Revoked. November 4, 2004

**CHADDA, ROPINDER SINGH, M.D.
(A63568) Woodland Hills, CA**

B&P Code §§2234(a), 2236(a), 2239. Multiple convictions of driving under the influence of alcohol. Revoked. November 4, 2004

CO, RUFINO TAN, M.D. (A39750) Fontana, CA

B&P Code §2234(c). Stipulated Decision. Committed acts of repeated negligence in the care and treatment of 3 patients. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, 30 days actual suspension, completing an ethics course, completing a professional boundaries program and providing 100 hours of free, non-medical community service. January 13, 2005

**COLMAN, LARRY MELVIN, M.D.
(C32794) Palos Verdes Estates, CA**

B&P Code §822. Stipulated Decision. Physician has a condition affecting his ability to practice medicine safely. Surrender of license. December 30, 2004

**COWLES, JOHN D., M.D.
(A15311) Garden Grove, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, repeated negligent acts, incompetence, prescribing without a good faith prior examination and failing to maintain adequate and accurate records in the care and treatment of 1 patient. Revoked, stayed, placed on 2 years probation with terms and conditions including, but not limited to, completing a prescribing practices course, a medical record keeping course and an educational course in addition to required CME. November 29, 2004

**CUSHING, MATTHEW, JR., M.D.
(G4956) Greenbrae, CA**

B&P Code §§725, 2234(c), 2238, 2241, 2242(a). Stipulated Decision. Committed acts of excessive prescribing, repeated negligence, unprofessional conduct, prescribing to an addict, prescribing without a good faith prior examination and violating drug statutes in the care and treatment of 1 patient. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing a clinical training program and an ethics course, maintaining a record of all controlled substances ordered, prescribed, dispensed, administered or possessed, maintaining a record for any recommendation for marijuana and obtaining a practice monitor. December 30, 2004

**DEWAR, SENECA T., M.D.
(A33700) San Bernardino, CA**

B&P Code §§2234, 2266. Stipulated Decision. Committed acts of unprofessional conduct and failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Physician completed a clinical training program, an ethics course and a medical record keeping course. Public Letter of Reprimand. December 10, 2004

DONOVAN, JAMES F., M.D.

(G10371) Oceanside, CA

B&P Code §§822, 2234(e), 2236(a). Convicted twice for vehicle theft and has a condition affecting his ability to practice medicine safely. Revoked. November 22, 2004

DRUCKER, ROBERT NEIL, M.D.

(A31889) Napa, CA

B&P Code §§2234(e), 2261. Stipulated Decision. Violated the terms and conditions of his board-ordered probation by failing to timely complete CME, making false statements on his quarterly declarations and providing dishonest statements to his probation monitor. Probation is extended an additional 4 years, with terms and conditions including, but not limited to, completing an educational course in addition to required CME, passing a SPEX examination, obtaining a practice/billing monitor and prohibited from participating in any Medi-Cal program. December 30, 2004

DULKANCHAINUN, SATHIT B., M.D.

(A62004) Sun Valley, CA

B&P Code §§2234, 2236(a), 2239. Stipulated Decision. Violated the terms and conditions of his board-ordered probation by being convicted of a misdemeanor for driving under the influence of alcohol. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, 1 year actual suspension, abstaining from the personal use or possession of controlled substances and alcohol, submitting to biological fluid testing, completing the Diversion Program and an ethics course, passing a SPEX examination and obtaining a practice monitor. January 27, 2005

ESCAJEDA, RICHARD M., M.D.

(G4088) San Diego, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts, incompetence and failing to maintain adequate and accurate medical records in the care and treatment of 2 patients. Surrender of license. January 11, 2005

FARSAD, G. REZA HAMDY, M.D.

(A37865) Palm Springs, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, repeated negligent acts, dishonesty, incompetence and failing to maintain adequate and accurate medical records in the care and treatment of 1 patient. Physician completed a clinical training program, an ethics course and a medical record keeping course. Public Letter of Reprimand. December 27, 2004

FAYMAN, SAM, M.D. (A53768) Galesburg, IL

B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Iowa for inappropriate record keeping and inappropriate patient care in the care and treatment of several patients. Surrender of license. December 27, 2004

GARCIA, SERAFIN MONTEALTO, M.D.

(G26819) Glendale, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, incompetence and failing to maintain adequate and accurate medical records in the care and treatment of a patient. Physician completed a clinical training program and a medical record keeping course. Public Reprimand. January 3, 2005

GEVORKIAN, RAFAYEL, M.D.

(A41672) Los Angeles, CA

B&P Code §2234(b)(c)(d). Stipulated Decision. Committed acts of gross negligence, repeated negligence and incompetence in the care and treatment of 3 patients. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing an educational course in addition to required CME, completing a medical record keeping course, completing a clinical training program and obtaining a practice monitor. January 27, 2005

GIL, ALEJANDRO ESTEBAN, M.D.

(A37558) Los Angeles, CA

B&P Code §§2234(b)(c)(d), 2266. Committed acts of gross negligence, incompetence, repeated negligence and failed to maintain adequate and accurate medical records in the care and treatment of 2 patients. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing a professional boundaries program and a medical record keeping course and having a third-party chaperone present while consulting, examining or treating female patients. December 6, 2004

**Please Check Your Physician Profile
at the Medical Board's Web Site**

Your Address of Record is Public

www.caldocinfo.ca.gov

Signed address changes may be submitted
to the board by fax at (916) 263-2944, or
by regular mail at:

Medical Board of California
Division of Licensing
1426 Howe Avenue, Suite 54
Sacramento, CA 95825

HARLAN, STEVEN LEE, M.D.

(C50029) Des Moines, IA

B&P Code §§141(a), 2305. Disciplined by Iowa for failing to appropriately delegate and/or supervise medical services provided by another healthcare practitioner. Public Reprimand. January 26, 2005

HEALY, DANIEL JAMES, M.D.

(G45341) Duarte, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, repeated negligent acts, incompetence, failing to maintain adequate and accurate medical records and unprofessional conduct in the care and treatment of 2 patients and violating the terms and conditions of his board-ordered probation. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, completing a medical record keeping course and a clinical training program and obtaining a practice monitor. January 3, 2005

KALMAR, TANYA ROSALIA, M.D.

(A72299) Ukiah, CA

B&P Code §2266. Failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Public Reprimand. November 1, 2004

KOIRE, BERNARD, M.D.

(A28400) Beverly Hills, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence and repeated negligent acts in the care and treatment of 2 patients and performing surgeries in an unaccredited facility. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, completing a medical record keeping course, a clinical training program and an ethics course and prohibited from performing surgeries which require general anesthesia in his surgery center until the facility is accredited. January 24, 2005

KRIKORIAN, KRIKOR C., M.D.

(A44310) Los Angeles, CA

B&P Code §822. Physician has a condition affecting his ability to practice medicine safely. Revoked. November 15, 2004

LANE, LARA MARIE, M.D.

(A65032) San Jose, CA

B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Colorado for failing to timely diagnose the condition of the placenta accreta during the third stage of labor and failing to take more aggressive action and intervention based upon the patient's symptoms. Public Letter of Reprimand. January 25, 2005

LANGE, DENNIS ANDREW, M.D.

(G75237) Mountain View, CA

B&P Code §§822, 2234, 2238, 2239. Stipulated Decision. Violated the terms and conditions of his board-ordered probation by violating state and federal drug laws, self-abuse of drugs, having a condition affecting his ability to practice medicine safely and failing to obtain a practice monitor. Surrender of license. November 11, 2004

LEE, JAMES EDWARD, M.D.

(G66831) Davis, CA

B&P Code §§2234, 2238, 2239. Committed acts of unprofessional conduct and violated federal drug laws by being convicted twice for driving under the influence of controlled substances. Revoked, stayed, placed on 7 years probation with terms and conditions including, but not limited to, surrendering his DEA permit, abstaining from the use or possession of controlled substances and alcohol, biological fluid testing, completing the Diversion Program, completing an educational course in addition to required CME, completing a clinical training program, obtaining a practice/billing monitor, no solo practice, and prohibited from ordering, prescribing, dispensing, administering or possessing any controlled substance. December 9, 2004

LEGGS, TONI ELIZABETH, M.D.

(A30833) San Bernardino, CA

B&P Code §2234. Stipulated Decision. Failed to note the correct diagnosis, papillary carcinoma of the thyroid gland, after reviewing a specimen taken from a patient. Must complete a clinical training program. Public Reprimand. December 6, 2004

LIS, LEON E., M.D. (G57803) Arcadia, CA

B&P Code §2234(b)(c)(d). Stipulated Decision. Committed acts of gross negligence, repeated negligence and incompetence by failing to review the label on a contrast dye before injecting it into a patient and failing to identify cancer cells in the film from a CT scan in another patient. Physician completed a clinical training program. Public Reprimand. December 28, 2004

LIZARRAGA, JUAN FERNANDO, M.D.

(A49181) Cerritos, CA

B&P Code §§820, 822, 2234(a), 2239. Stipulated Decision. Self-abuse of alcohol, and physician has a condition affecting his ability to practice medicine safely. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing the Diversion Program, abstaining from the use of alcohol and submitting to biological fluid testing. December 6, 2004

MABEUS, DUANE F., M.D. (C24893) Hayden, ID
B&P Code §141(a). Disciplined by the Air Force for failing to order the correct test for a patient, failing to transfer the patient to intensive care in a timely manner and failing to properly assess the patient's level of consciousness. Also, disciplined for failing to fulfill his required term of supervision. Physician completed an educational course. Public Reprimand. November 17, 2004

MANCHERJE, CYRUS RUTTON, M.D. (A41743) Fairfield, CA
B&P Code §2234(d). Stipulated Decision. Committed acts of incompetence by prescribing Betapace AF therapy on an outpatient basis for a patient (with known organic heart disease, cardiac decompensation, congestive heart failure and compromised renal function) without closely monitoring the patient and adjusting the dosage to prevent complications. Physician completed a prescribing practices course. Public Reprimand. January 12, 2005

MARSEILLE, ROBERT PAUL, M.D. (A55911) Cedar Rapids, IA
B&P Code §§141(a), 2305. Disciplined by Iowa for having a condition affecting his ability to practice medicine safely. Revoked. November 26, 2004

MASSIH, MEHDI, M.D. (A41801) Encino, CA
B&P Code §2286. Stipulated Decision. Aided and abetted the violation of the Moscone-Knox Professional Corporation Act by contracting with an unlicensed individual and an unlicensed corporation to provide medical services. Public Reprimand. November 8, 2004

MCGUIRE, JOSEPH SMITH, M.D. (G69563) Stanford, CA
B&P Code §2234. Stipulated Decision. No admissions but charged with having a condition affecting his ability to practice medicine safely. Surrender of license. December 10, 2004

MORRIS, STEPHEN FLINT, M.D. (G56446) Tarpon Springs, FL
B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Florida for failing to accurately interpret a pathology specimen. Public Letter of Reprimand. December 16, 2004

NASH, JAMES F., M.D. (C51363) Lake Arrowhead, CA
B&P Code §§141(a), 2305. Disciplined by Georgia for sexual misconduct and prescribing irregularities with a patient and disciplined by Virginia for action taken by another state. Revoked. December 3, 2004

PAOLELLA, ROBERT ANTHONY, M.D. (A54151) Aurora, IL
B&P Code §§141(a), 2305. Disciplined by Rhode Island for willfully making false entries in patient records. Revoked. December 16, 2004

PATEL, RICHARD MARC, M.D. (G79939) San Francisco, CA
B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts in the care and treatment of 1 patient. Physician completed a clinical education program. Public Reprimand. November 3, 2004

PICKETT, JUSTUS C., M.D. (C30653) Napa, CA
B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence and incompetence in the care and treatment of a patient with multiple fractures of the arm and elbow. Physician completed a course in surgical techniques for managing pediatric orthopaedic trauma. Public Reprimand. January 3, 2005

PIERRE-LOUIS, PHILIP BRIAN, M.D. (A42426) Riverside, CA
B&P Code §2234. Stipulated Decision. Violated the terms and conditions of his board-ordered probation and has a condition affecting his ability to practice medicine safely. Surrender of license. January 24, 2005

PILCH, BORIS I., M.D. (G68397) San Luis Obispo, CA
B&P Code §2266. Stipulated Decision. Failed to maintain adequate and accurate medical records in the care and treatment of 2 patients. Physician completed a clinical training program and passed the American Board of Pain Medicine Certification Examination. Public Reprimand. December 2, 2004

PINEDA, ANSELMO, M.D. (A19894) Long Beach, CA
B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, repeated negligent acts, incompetence and failing to maintain adequate and accurate medical records in the care and treatment of 4 patients and having a condition affecting his ability to practice medicine safely. Surrender of license. January 11, 2005

POWERS, JAMES CARVILLE, M.D. (G56299) Coronado, CA
B&P Code §§2238, 2241, 2242, 2266. Stipulated Decision. Violated federal drug statutes, prescribed to an addict, prescribed without a good faith prior examination, and failed to maintain adequate and accurate medical records during the care and treatment of 1 patient. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to,

maintaining a record of all controlled substances ordered, prescribed, dispensed, administered or possessed and any recommendation or approval for marijuana; completing an educational course in addition to required CME; completing a prescribing practices course, a medical record keeping course, an ethics course and a professional boundaries program; and obtaining a practice monitor. December 9, 2004

PRIVITERA, JAMES R., JR., M.D.
(C30445) Covina, CA

B&P Code §§2234, 2266. Stipulated Decision. Committed acts of unprofessional conduct by failing to perform an adequate history and physical of a patient before treatment and failed to maintain adequate and accurate medical records of the care and treatment provided to that patient. Physician completed a prescribing practices course and a medical record keeping course. Public Reprimand. November 17, 2004

RAJASEKHAR, DAMODARA, M.D.
(A55917) Apple Valley, CA

B&P Code §§2234(b)(c)(d), 2266. Committed acts of gross negligence and incompetence and failed to maintain adequate and accurate medical records in the care and treatment of 1 patient and repeated negligence in the care and treatment of 2 patients. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, completing a clinical training program. January 10, 2005

RICKABAUGH, DONALD E., M.D.
(A11257) Newport Beach, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, repeated negligent acts, incompetence, excessive prescribing and unprofessional conduct in the care and treatment of 2 patients. Surrender of license. December 31, 2004

RODRIGUEZ, ROMUALDO RON, M.D.
(C41351) Hemet, CA

B&P Code §§725, 2234(b)(d), 2266. Committed acts of gross negligence, incompetence and excessive prescribing and failed to maintain adequate and accurate medical records in the care and treatment of 2 patients. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing a clinical training program, an educational course in addition to required CME, a prescribing practices course, a medical record keeping course and an ethics course; and maintaining a record of all controlled substances ordered, prescribed, dispensed, administered or possessed and any recommendation or approval for marijuana. January 18, 2005

ROSENTHAL, BERTRAM P., M.D.
(GFE 10564) Encino, CA

B&P Code §2234. Stipulated Decision. No admissions but convicted of solicitation to commit a crime. Surrender of license. December 8, 2004

RYAN, ROGER L., M.D.
(G12904) Little Rock, AR

B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by the Air Force for arriving on duty in an intoxicated state. Surrender of license. November 9, 2004

SABER, JOSEPH MICHAEL, M.D.
(G31373) Delta, CO

B&P Code §§141(a), 2305. Disciplined by Colorado for being unable to practice medicine with reasonable skill and safety to patients and for prescribing a controlled substance for a patient when he had agreed through a board order not to practice. Revoked. November 8, 2004

SADEGHI, FIROOZ, M.D.
(C40713) Glendale, CA

B&P Code §§810, 2052, 2234(b)(c)(d)(e), 2261, 2262, 2264. Committed acts of dishonesty and insurance fraud, falsified medical records, and made false statements by billing insurers for medical services that were not rendered; aided and abetted the unlicensed practice of medicine; engaged in the practice of medicine while his license was suspended; committed acts of unprofessional conduct by being convicted for disturbing the peace; and committed acts of gross negligence, repeated negligence and incompetence in the care and treatment of 6 patients. Revoked. November 1, 2004

SCHULTZ, MARVIN A., M.D.
(C24661) Wauwatosa, WI

B&P Code §2234. Stipulated Decision. Physician has a condition affecting his ability to practice medicine safely. Surrender of license. December 14, 2004

SINGH, BALDEV DAVID, M.D.
(C40540) Fresno, CA

B&P Code §§ 2234(b)(c)(e), 2242, 2266. Stipulated Decision. Committed acts of gross negligence and repeated negligence and failed to maintain adequate and accurate medical records in the care and treatment of 2 patients; and committed acts of dishonesty and prescribed without a good faith prior examination and medical indication in the care and treatment of 1 patient. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, obtaining a practice monitor and completing a medical record keeping course, an ethics course and a clinical training program. January 10, 2005

**SMITH, GREGORY LUKE, M.D.
(G60378) Atlanta, GA**

B&P Code §§141(a), 2305. Disciplined by Texas for prescribing drugs over the Internet without first establishing a physician/patient relationship and disciplined by Washington for prescribing medications over the Internet without having seen, interviewed or examined the patients. Revoked, stayed, placed on 3 years probation with terms and conditions. December 6, 2004

**SPENCER, WANDA JEAN, M.D.
(A42254) Santa Maria, CA**

B&P Code §§2234(c), 2266. Stipulated Decision. Committed acts of repeated negligence and failed to maintain adequate and accurate medical records by not charting a patient's decision to monitor her blood sugars on her own, which led to an incomplete record of the patient's routine testing and prenatal blood sugar values. Physician completed an educational course in the area of diabetes management during pregnancy and prenatal care and charting. Public Reprimand. November 8, 2004

**STECK, TIMOTHY BRIAN, M.D.
(G71188) Santa Clara, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with unprofessional conduct, gross negligence, repeated negligent acts, and incompetence by failing to perform a reasonable history and physical examination to validate a patient's overall health status prior to performing a conscious sedation medical procedure. Public Reprimand. January 3, 2005

TRAN, HAI THE, M.D. (G83905) Victorville, CA

B&P Code §2234(b). Stipulated Decision. Committed acts of gross negligence by performing extensive dissection and using electrosurgery which led to damage of the spinal accessory nerve in a patient who had an epidermal inclusion cyst on the base of the neck. Public Letter of Reprimand. January 24, 2005

**TRETBAR, LAWRENCE L., M.D.
(G13137) Shawnee Mission, KS**

B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Kansas for testing positive for alcohol during several random fluid screens and failing to appear for required random alcohol screens. Surrender of license. December 20, 2004

**Copies of public documents are available
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TSAO, FRANCIS, M.D. (G56330) New York, NY
B&P Code §§141(a), 2305. Disciplined by New York for prescribing large quantities of Vicodin ES to a pregnant patient. Revoked. December 30, 2004

UTZ, JOHN PAUL, M.D. (C29805) Tucson, AZ
B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Arizona for issuing prescriptions for controlled substances in the name of others for his own use and for having a condition affecting his ability to practice medicine safely. Surrender of license. November 19, 2004

**WADE, MARK ROBERT, M.D.
(G47936) Germantown, TN**

B&P Code §§141(a), 2236(a), 2237, 2305. Stipulated Decision. Disciplined by Tennessee for issuing prescriptions to patients over the Internet without performing physical examinations, diagnostic testing or medical assessment and convicted of a felony for conspiracy to illegally dispense and possess with intent to dispense a controlled substance. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing a prescribing practices course and an ethics course; maintaining a record of all controlled substances ordered, prescribed, dispensed, administered or possessed and any recommendation or approval for marijuana; and obtaining a practice monitor. November 29, 2004

**WAGNER, RICHARD LEWIS, M.D.
(G52671) Coupeville, WA**

B&P Code §§141(a), 2234, 2305. Stipulated Decision. Disciplined by Nevada for failing to maintain accurate and complete medical records relating to the diagnosis, treatment and care of a patient. Public Letter of Reprimand. December 1, 2004

**WOLFSTEIN, RALPH S., M.D.
(C21310) Los Angeles, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, repeated negligent acts, incompetence and unprofessional conduct by failing to maintain adequate and accurate medical records of the treatment of a patient's thyroid condition during the patient's treatment for cancer. Physician completed a medical record keeping course and an educational course in thyroid disease treatment. Public Letter of Reprimand. December 16, 2004

**WOLMAN, CAROL STONE, M.D.
(G17507) Mendocino, CA**

B&P Code §2234. Stipulated Decision. Violated the terms and conditions of his board-ordered probation by failing to enroll in a clinical education program and failing to pay cost recovery and probation monitoring fees. Revoked, stayed, given an additional year

of probation in addition to previous board-ordered probation with terms and conditions including, but not limited to, obtaining a practice/billing monitor; prohibited from ordering, prescribing, dispensing, administering or possessing any controlled substances, except those in Schedules III, IV and V and the ADD medications Ritalin and Adderal; and prohibited from issuing an oral or written recommendation or approval for marijuana. November 29, 2004

**ZACHARIAH, ABRAHAM, M.D.
(A37144) Los Gatos, CA**

B&P Code §2234. Stipulated Decision. Convicted twice of driving under the influence of alcohol. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, abstaining from the personal use or possession for personal use of controlled substances, abstaining from the use of alcohol, submitting to biological fluid testing and completing the Diversion Program. January 20, 2005

**ZHANG, YAN PING, M.D.
(A83034) Monrovia, CA**

B&P Code §2236(a). Stipulated Decision. Convicted of a misdemeanor for petty theft. Public Letter of Reprimand. December 6, 2004

**ZULFACAR, MARY, M.D.
(A35358) Long Beach, CA**

B&P Code §§2234(a), 2266, 2285, 2415. Stipulated Decision. Failed to maintain adequate and accurate medical records and used names other than her own to practice medicine without the required fictitious name permits. Revoked, stayed, placed on 3 years probation with terms and condition including, but not limited to, completing an educational course in cultural diversity in patient care, completing a medical record keeping course, completing an ethics course, and obtaining a practice/billing monitor. November 29, 2004

DOCTOR OF PODIATRIC MEDICINE

KY, NGUYEN (EL 1616) Los Angeles, CA

B&P Code §§480(c), 2234(e), 2261. Stipulated Decision. Failed to disclose a misdemeanor conviction for driving under the influence of alcohol on his application for licensure with the Board of Podiatric Medicine. Resident license issued, revoked, stayed, placed on 7 years probation with terms and conditions including, but not limited to, abstaining from the use of alcohol, submitting to biological fluid testing and completing an ethics course. November 1, 2004

PHYSICIAN ASSISTANTS

**PHILLIPS, MARK ALAN, P.A.
(PA17702) Concord, CA**

B&P Code §§480(c), 3527(a). Stipulated Decision. Failed to disclose a misdemeanor conviction for petty theft on his application for licensure with the Physician Assistant Committee. Probationary license issued, placed on 3 years probation with terms and conditions including, but not limited to, completing an ethics course. Decision effective October 26, 2004, probationary license issued November 10, 2004.

**STIPATI, CASSANDRA RENEE, P.A.
(PA17735) Hemet, CA**

B&P Code §480(a)(1)(3). Stipulated Decision. Convicted of a misdemeanor for possession of marijuana and convicted of a misdemeanor for carrying a loaded firearm. License issued, revoked, placed on 5 years probation with terms and conditions including, but not limited to, abstaining from the personal use or possession of controlled substances, abstaining from the use of alcohol, biological fluid testing, completing an anger management course and an educational course in gun safety. Decision effective November 12, 2004, license issued November 23, 2004.

SPECTACLE LENS DISPENSER

ZOHRABYAN, ALFRED (SL5185) Glendale, CA

B&P Code §480(a)(1)(2)(3)(c). Stipulated Decision. Failed to disclose 2 misdemeanor convictions on his application for registration with the Medical Board of California. Registration issued, revoked, stayed, placed on 2 years probation with terms and conditions including, but not limited to, completing 120 hours of community service and an ethics course. Decision effective December 7, 2004, registration issued December 14, 2004.

Drug or Alcohol Problem?

If you are concerned about a fellow physician who may be abusing alcohol or other drugs or suffering from a mental illness, you can get assistance by contacting the Medical Board's confidential Diversion Program.

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Physician Diversion Program
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ACTION REPORT — APRIL 2005

Candis Cohen, Editor (916) 263-2389

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