



MEDICAL BOARD OF CALIFORNIA *Newsletter*



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Keeping accurate and professional medical records

The Medical Board is concerned about an upward trend in administrative actions against physicians that involve failure to keep adequate and accurate medical records. Violations can include improper altering of medical records; failing to maintain records of controlled substances ordered, dispensed, administered or possessed; failing to maintain records for medical marijuana recommendations; failing to note correct diagnoses; failing to document patient history; creating false or fraudulent medical records; and more.

Approximately 40 percent of all disciplinary actions imposed by the board require that the physician complete a medical record keeping course. Business and Professions Code section 2266 states, "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct," and the board may pursue a citation and fine of up to \$2,500. Depending on additional charges, the violations can range from gross or repeated negligence to incompetence.

The board cannot stress enough the importance of adequate and accurate medical records in caring for patients. Complete medical records are necessary not only to document the quality of patient care, but also to contribute to quality by facilitating the continuity of care. It is the physician's responsibility to maintain adequate and accurate patient medical records — no matter where the care is provided — including hospital, nursing home, and office records.

Physicians who comply with the following recommendations are likely to minimize any problems that might develop in the event that records are subpoenaed and reviewed.

A comprehensive patient record

In addition to the patient's condition, diagnosis and treatment, the following information is important and should be included in the medical record.

1. Any consultation informing the patient of his or her condition and the intended procedures, risks, hazards, and alternative therapy.
2. Any instructions given to a patient by telephone. Extreme caution should be exercised when giving or receiving information by telephone.
3. Any warnings regarding prescription drugs that may interfere with a patient's occupation or driving ability. Special note should be made of any allergies or sensitivities.
4. Surgical records that are comprehensive and promptly dictated or written. The anesthetist should record both pre- and postoperative information.

(Continued on page 9)

IN THIS ISSUE

President's report	2
Seven deadly sins	3
HFA-based albuterol metered dose inhalers	4
Legislator profile.	7
New MBC chief of enforcement	8
Guidance on compliance with HIPAA	10
Helping patients with no Workers' Compensation Insurance.	11
Simplifying disability insurance claims.	12
Consumer corner	12
Administrative actions	13
Board certified expert reviewers needed	14

The mission of the Medical Board of California

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

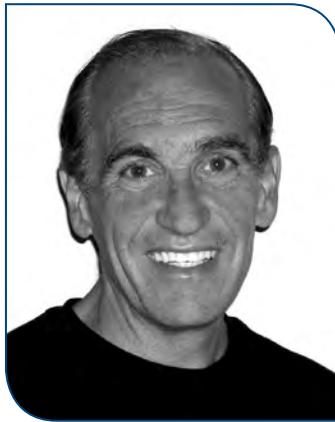
President's Report

I would like to thank the members of the Medical Board of California for electing me their president. I have been on this board for six years and feel proud and humbled to work with such caring and dedicated human beings. I have had the privilege of meeting, working with, and developing friendships with some of the most thoughtful, reflective, kind, intelligent, and selfless individuals on the board, its staff, and in our great state.

Also, we have many fine health care facilities in our state. As a member and past president of the board's Division of Licensing, I have visited each academic health care center. Working with deans from all the medical schools, the board, and other interested parties, we developed and had passed through the Legislature a bill to increase the use of our "special programs." These programs allow physicians who are renowned in their specialties but not licensed to practice in California to practice in academic settings so they may share their knowledge and skills with California physicians (Business and Professions Code sections 2111, 2113, and 2168). We talked, listened, and worked together to create this very special graduate medical education program.

A representative from each medical school is now on a review committee together with a Medical Board member to act as an oversight committee.

Physician wellness is an issue of particular interest to me. One of my goals as Medical Board president is to help empower all of our licensees to access wellness programs. Some physicians have the privilege to work in an environment where wellness is in the culture of the group, and where doctors in the system help each other. Not every physician is so fortunate, and the Medical Board is in a unique position to help bring together those experts in our state who can assist those physicians who are



Richard Fantozzi, M.D.
President of the board

doing a critical job treating patients, yet could benefit from access to a wellness program.

Wellness can be very broad in scope, ranging from a physician's loss of compassion for patients to questions of competency. I will strive to promote the spirit that the board can, in some cases, prevent physicians from becoming professionally compromised before they face discipline. Some of the resources that will enable the success of this endeavor did not exist a decade ago. The Physician Assessment

and Clinical Education Program (PACE), inspired by Bill Norcross, M.D., serves as a model for other states to follow as well as helps California's physicians. PACE is located in San Diego, and offers many educational programs designed to assist physicians in meeting licensing and continuing medical education requirements. Under the leadership of Dr. Norcross, it also is a think tank for how to promote wellness better and more thoughtfully.

Potential barriers such as cost, time, travel, and inconvenience for physicians in need of wellness assistance no longer have to stand in the way, thanks

to interactive software developed for distance learning. Retention rates using such software approach 90 percent versus 10 percent in a traditional lecture environment. I have appointed a task force of the board to convene a summit of stakeholders to

develop the core principles of physician wellness, and a means to promote accessibility to wellness programs for all of our doctors. Our mission is consumer protection, and I believe a healthy physician workforce will help promote that mission.

Another of my goals in the upcoming year is to meet with physician groups statewide to hear from our

"Our mission is consumer protection, and I believe a healthy physician workforce will help promote that mission."

(Continued on page 9)

Preventive medicine and the seven deadly sins: avoiding discipline against your medical license

by Laura Sweet, Supervising Investigator II
Los Angeles Metropolitan Area

This is the fifth of seven articles in the series, "Preventive Medicine and the Seven Deadly Sins." This quarter's issue explores the sin of gluttony.

Gluttony n. Excess in eating or drinking

Ahh, gluttony. I think most of us can relate to the lethargy induced by a well-celebrated Thanksgiving Day feast. For some of us, it's more than a once-a-year affair. For some of us yet, the propensity to over-consume is an ongoing struggle. Personally, gluttony is my best-practiced sin. Just give me a quart of Baskin-Robbins' Pralines 'N Cream, a spoon and a towel with which to wrap it so my hands don't get frostbitten, and I can eat the whole thing. The pitiful thing is, I don't even need an Alka Seltzer!

Of course, eating like a pig isn't against any law of which I am aware, as long as I don't consume, say, a person. I am inclined to expand the definition of gluttony so there can be a worthwhile examination of an area of law in which physicians can find themselves in trouble. The natural gluttony nexus would seem to be excess drinking or drug abuse, but even though that may be technically correct, I know the addictive disease process certainly does not arise from gluttony. Consequently, I must thank you in advance for your indulgence in allowing me to fulfill my seven deadly sins theme with this particular analogy!

During fiscal year 2005–06, 65 (out of 309) cases resulting in discipline arose from an allegation of drug or alcohol use. These cases involved self-use of alcohol, self-use of drugs, or excessive prescribing of drugs to patients. These are always sad cases, no matter whether the physician or the patient is the one suffering from addiction. I clearly can remember one of my first cases alleging a substance abuse issue, though this was not a controlled substance. A young anesthesiologist, suffering from a terminal illness, was found by a colleague hidden inside a broom closet having huffed fluid tape cleaner until he was barely conscious.

There are several laws relating to consumption of alcohol or drugs in the Medical Practice Act. Business and Professions Code section 2280 prohibits a licensee from practicing medicine while under the influence of any narcotic drug or alcohol to such an extent as to

impair his or her ability to conduct the practice of medicine with safety to the public and his or her patients. Section 2239 prohibits excessive use of drugs or alcohol: "(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct."

The prohibition against self-prescribing a controlled substance bears repeating. Many physicians do not realize that they may not self-prescribe any controlled substance. This includes pharmaceutical samples.

The most common event that triggers a Medical Board investigation for a Business and Professions Code section 2239 violation is a conviction for driving under the influence. Whenever a physician is convicted of a crime, the Medical Board is notified of it. If it's a first conviction, and absent any information the physician is suffering from a problem that could potentially impact patient care, we generally will resolve the case with advice to the offender about our Diversion Program.

Upon notification of a second conviction, however, the investigation will be more extensive. Investigators will obtain copies of the police reports and court documents. Investigators will interview the physician and possibly other witnesses. The case then may be transmitted to the Office of the Attorney General for consideration of disciplinary action. There is also a second option. If the conduct arises solely out of a substance abuse problem, and there are no quality of care issues, a physician may be a candidate for the board's Diversion Program

(Continued on page 5)

Assisting patients transition to HFA-based albuterol metered dose inhalers

Information provided by the NACDS (National Association of Chain Drug Stores) Foundation

Throughout the past year, the FDA has made a number of announcements regarding the supply of albuterol metered dose inhalers (MDIs). As part of a worldwide effort to protect the ozone layer, the FDA has mandated that albuterol inhalers containing chlorofluorocarbons (CFCs) be replaced. CFCs deplete the ozone layer, impairing its ability to filter out harmful ultraviolet rays. The EPA estimates that in the United States alone, the phase out of ozone-depleting chemicals is projected to prevent an estimated 6.3 million skin cancer deaths and 299 million other skin cancer cases.

Some of the manufacturers of these commonly dispensed CFC-based MDIs have decreased production, which may be resulting in changes in pharmacies' supplies. In place of CFC-based MDIs, some manufacturers have reformulated their products with an alternate propellant called hydrofluoroalkane (HFA), which is not harmful to the ozone. HFA inhalers are CFC-free, and offer benefits to patients as well as the environment.

Prescribers of albuterol MDIs are being educated to assist with the transition to environmentally friendly HFA-based products. However, as pharmacists continue to receive prescriptions for "Albuterol MDI," prescribers are reminded that the transition to HFA-based albuterol products already has begun and prescribers are asked to specify the HFA albuterol inhaler they would like dispensed. This will help reduce the burden placed on pharmacists if more prescribers are aware that the supply of products containing CFCs is decreasing.

The albuterol HFA products are not considered by the FDA to be substitutable for each other or CFC-based albuterol formulations. However, the HFA rescue inhalers are considered to be safe and effective alternatives to CFC-based quick-relief albuterol MDIs. Physicians should not assume that a once-generic drug may not be the same drug in the brand name version. They need to know the difference and be sure they are compatible and appropriate for the patient and his or her particular condition.

Pharmacists and physicians should inform patients that they may experience any or all of the differences below when switching to an HFA-based product. These changes are due to the propellant, not the active ingredient: different taste, different smell, different spray force, and different sensation. Also, the cleaning and priming procedures for these products may vary. Pharmacists should inform patients to check the product instructions.

CFC to HFA:

A change in propellants to prevent ozone damage.

CFC:

A combination of carbon, chlorine, and fluorine. It is the chlorine in this propellant that damages the ozone layer.

HFA:

The first albuterol MDI containing a HFA propellant was approved in 1996. The transition has already begun in using HFA as the propellant in many common albuterol MDIs to help preserve the ozone layer.

Medical Board of California's New Officers for 2007–2008

FULL BOARD

President: Richard D. Fantozzi, M.D.
Vice President: Ronald L. Moy, M.D.
Secretary: Laurie Gregg, M.D.

DIVISION OF LICENSING

President: Laurie Gregg, M.D.
Vice President: Hedy Chang
Secretary: Gary Gitnick, M.D.

DIVISION OF MEDICAL QUALITY

President: Cesar Aristeiguieta, M.D.
Vice President: Barbara Yaroslavsky
Secretary: Stephen Corday, M.D.

Seven deadly sins *(Continued from page 3)*

(an intensive rehabilitation-monitoring program). Here the physician signs an agreement admitting to conduct for which discipline can be imposed, but in lieu of that discipline being imposed, the physician agrees to enter the Diversion Program. If the physician fails to successfully complete diversion (which is a five-year commitment), the underlying case is referred to the Office of the Attorney General and treatment is imposed via the board's order (versus the agreement originally signed). Ideally, physicians will avail themselves of the Diversion Program prior to coming to the attention of the Enforcement Program, but we realize it often takes a sentinel event, like an arrest (or two) before treatment is sought.

Excessive prescribing is another facet of gluttony, although the impetus for the physician is usually a different sin: greed. In the early '90s, we revoked the licenses of physicians who sold prescriptions for Dilaudid for distribution on the street. Today, Oxycontin is the analgesic du jour, and was the nemesis of a physician whose license was recently revoked for selling enormous quantities to a motorcycle gang. Then there are the run-of-the-mill pill cases: physicians who provide prescriptions for Vicodin, or whatever else the patient requests, without an appropriate prior examination and a medical indication. Los Angeles is particularly rife with drug cases and the occasional high-profile case involving excessive/inappropriate prescribing to celebrities. The tragic aspect of these, and many of the complaints we receive, is that often the physicians do not come to the board's attention until someone has overdosed.

Frequently, a complaint is initiated because Dr. X is prescribing huge amounts of Norco and Soma to the complainant's spouse. The complainant is worried, angry, and frustrated because their loved one just got out of rehab. The complainant called Dr. X to implore him to stop writing prescriptions, especially the ones from which the loved one was just detoxified, and Dr. X will not stop. Other times, the complainant is the parent of a child who has overdosed. The parent finds their dead child among hundreds of bottles of pills. Sometimes the complainant is another law enforcement officer who pulls someone over and finds scores of pill bottles in their vehicle.

Over-prescribing cases can be very complex to investigate. This is because investigators must determine whether the patient is suffering from a legitimate pain condition and is legitimately receiving large quantities of narcotics, or whether the patient is merely drug seeking or diverting drugs for sale on the street. Sometimes, to further complicate matters, a patient may be both.

The discernment process ordinarily begins with a review of a Controlled Substances Utilization Review (CURES) report for both the physician and the patient. The report is called a Patient Activity Report (PAR) and is used to analyze patterns of over-prescribing. The PAR form can be downloaded from the board's Web site at www.mbc.ca.gov/DOJ_Patient_Profile.htm. What kinds of things pique our curiosity? The quantity of a particular drug is just one piece of information. There are circumstances in which a huge amount of narcotics may be perfectly appropriate. So, we also look to see how many doctors the patient is visiting. Is the patient "doctor shopping" and going to different pharmacies to avoid detection? Does the patient live a ridiculously long way from the physician's practice? None of these factors, in and of themselves, may be problematic. Our index of suspicion rises, when we see a multitude of these patterns. Please see page 7 for a list of potential indicators that may suggest a patient is using prescriptions inappropriately. The list is an excerpt from a Department of Justice brochure entitled, *Guidelines for Combating Prescription Drug Abuse and Fraud*.

An investigator may initiate surveillance, or undertake an undercover operation. If the undercover operation proves fruitful, then a search warrant may be considered. Prescribing without a legitimate medical purpose is a both an administrative and criminal offense.

Before you are incapacitated with concern that board investigators may be lurking in your waiting rooms, please understand that the office waiting areas, where search warrants are executed, often look like a Grateful Dead reunion. By the time a warrant is sought, usually one or two operatives have visited the clinic on several occasions and received controlled substances for absolutely no legitimate medical reason.

(Continued on page 8)

Board member profile: Barbara Yaroslavsky



Barbara Yaroslavsky was born and raised in Los Angeles. She has been a citizen and community activist for decades, with a focus on education and health care issues. She sits on the boards of many nonprofit agencies. Active in the L.A. Free Clinic for more than 25 years, Ms. Yaroslavsky believes that health care is a right

and not a privilege. She served on the Free Clinic Board and sits on its Friends Board, which annually raises in excess of \$1 million.

Ms. Yaroslavsky also is active on the L.A.'s Best Board, a nationally recognized after-school program that provides a quality program for more than 26,000 students in the Los Angeles City area public elementary schools. She serves on the Undergraduate Student Scholarship Committee at U.C. San Diego and is a strong proponent of education for all.

Ms. Yaroslavsky is active on several boards at the Jewish Federation Council of Greater Los Angeles, the Bureau of Jewish Education, and the Jewish Community Relations Council. She previously chaired the Jewish Public Affairs Committee, a statewide lobbying organization that

garners support for non-sectarian social services throughout California, and currently serves on that board. She also heads up special projects for the Zimmer Children's Museum and was active in the task force establishing the Koreh-L.A. Task Force, the Jewish community's response to literacy.

Ms. Yaroslavsky is an active member of the Executive Service Corps., which places retired executives in the non-profit arena as coaches.

She also was appointed by the mayor of Los Angeles to serve on the Commission for Children, Youth and their Families and sits on the childcare and health committees.

Currently, Ms. Yaroslavsky is a member of the Medical Board of California's Division of Medical Quality, and serves as its vice president. She has participated on several board committees and the task forces on pain management and midwifery. She is the board's appointee to the Midwifery Advisory Council and the Health Professions Educational Foundation, which is charged with raising funds and distributing loan repayments to medical professionals. During the three years that the Medical Board administered the loan repayment program, Ms. Yaroslavsky was engaged in the selection process of loan repayment distributions.

Ms. Yaroslavsky has been married to L.A. County Supervisor Zev Yaroslavsky for 35 years. They have two adult children.

Division of Licensing appoints members to the Midwifery Advisory Council

At its February 2, 2007, board meeting, the Medical Board's Division of Licensing (DOL) appointed six new members to the newly established Midwifery Advisory Council (MAC). The council was established through implementation of SB 1638 (Figueroa, Chapter 536) to make recommendations to the DOL on midwifery matters that are presented by the board.

The following members of the MAC were appointed to the initial terms noted below:

Karen Ehrlich, L.M. (2-year term)

Carrie Sparrevohn, L.M. (1-year term)

Faith Gibson, L.M. (3-year term)

Guillermo Valenzuela, M.D. (2-year term)

Ruth Haskins, M.D. (3-year term)

Barbara Yaroslavsky (1-year term)

Each member has been appointed to a staggered term of up to three years to ensure that all members' terms do not end simultaneously and to help ensure

that institutional knowledge is maintained. Thereafter, appointments will be for a term of three years.

The initial responsibility of the MAC will be to work with the DOL's staff and the Office of Statewide Health Planning and Development (OSHPD) to devise a coding system for the annual reporting of the data elements related to childbirths that were initially intended to occur in out-of-hospital settings in which licensed midwives assisted for the previous year. The first year of reporting will be for calendar year 2007, with reports due to OSHPD by March 31, 2008.

The first meeting of the MAC was held on March 9, 2007, and officers were elected and the council's mission, vision, roles, and responsibilities were discussed. A second meeting was held on April 17, 2007, to discuss the midwife annual report coding system as required in Business and Professions Code section 2516. A third meeting was held on June 12, 2007, for a final review of the annual report coding system, comment, and completion.

Legislator profile

Senator Mark Ridley-Thomas



Mark Ridley-Thomas (D-Los Angeles) was elected to the California State Senate in November 2006 after serving two legislative terms in the State Assembly.

He is chair of the Senate's Committee on Business, Professions and Economic Development. The eight-member committee has

policy and legislative oversight of the state Department of Consumer Affairs and important state licensing boards and commissions.

Senator Ridley-Thomas' legislative appointments include membership to the following committees: Appropriations, Energy, Utilities and Communications, Health, and Public Safety.

In addition to his chairmanship and committee duties, Senator Ridley-Thomas' legislative agenda continues to focus on a broad range of issues important to his 26th Senate District's constituency.

The Senator's priorities include economic and workforce development; health care, including mental health;

public safety; education; budget accountability; civic participation; and adequately funding the state's community college system.

Among Senator Ridley-Thomas' board legislative agenda, he has authored two measures that relate to the medical field: Senate Bill 761 extends the current sunset dates for the Medical Board's Diversion Program and the pilot program on vertical enforcement. Audits of the two programs are due in July and adequate time is needed to implement any proposed changes in the law that may be recommended. Senate Bill 767 addresses civil and criminal liabilities related to the prescription and distribution of Naloxone, a drug used to counter the effects of opioid overdose and specifically used to counteract life-threatening depression of the central nervous system and respiratory system.

Senator Ridley-Thomas was first elected to public office in 1991 and served on the Los Angeles City Council for nearly a dozen years. A lifelong resident of Los Angeles, he has dedicated his career to public service. His political career was preceded by a decade of service as executive director of the Southern Christian Leadership Conference of Greater Los Angeles. He is a member of the prestigious 16-member State Mental Health Services Oversight and Accountability Commission.

Potential indicators of prescription drug abuse/fraud

an excerpt from the Department of Justice brochure, *Guidelines for Combating Prescription Drug Abuse and Fraud*

- Patients hesitant or unclear about pertinent personal information:
 - » home address
 - » phone number
 - » date of birth
 - » Social Security number
 - » unable to provide government photo ID
- Patient requesting specific controlled substances
- Repeatedly running out of medication early
- Notice rapid request for increases in controlled substances
- Unscheduled refills being requested
- After-hour, holiday or weekend requests for controlled substances
- Unwillingness to try non-opioid treatments
- Ongoing use after medical problem has been resolved
- Engaging in doctor shopping activity
- Moving from one primary care physician to another frequently
- Evidence of withdrawal symptoms visible at appointments
- Forging prescriptions from non-medical or multiple-medical sources

Medical Board announces appointment of new chief of enforcement

A. Renee Threadgill has been appointed as the board's new chief of enforcement, replacing Joan Jerzak, who retired. Ms. Threadgill is the fifth chief since the establishment of the board's Enforcement Program in 1976. She had been acting chief for the past 11 months until being appointed chief in February 2007.

She is responsible for the oversight and management of the board's Enforcement Program including the Central Complaint Unit, the Discipline Coordination Unit, the MBC Probation Program and all investigative services provided by the board's peace officers. She also interacts with other law enforcement agencies, provides outreach to physician groups and various allied associations, and has regular communication with representatives from the Office of the Attorney General.

Ms. Threadgill has more than 29 years of service with the Medical Board's Enforcement Program. Rising through the investigative ranks, she has served in a number of high-profile positions in various regions of the state.

Her prior Medical Board experience includes deputy chief of enforcement of the Office of Investigative Services where she was responsible for statewide management of investigative services provided by the district offices, and oversaw the Discipline Coordination Unit, Central Complaint Unit and the Probation Unit; supervising investigator II of the Los Angeles Metropolitan Area; and supervising investigator I over the Woodland Hills and Pleasant Hills district offices. Ms. Threadgill also has conducted numerous investigations of individuals licensed by the board and other allied health agencies.

Ms. Threadgill's educational background includes a law degree from Hastings College of Law and a bachelor's degree in criminal justice administration (corrections), and psychology from California State University, San Jose.

Her years of experience and service in the field of enforcement are an ideal complement to her leadership abilities as the board's new chief.

Seven deadly sins *(Continued from page 5)*

MBC investigators know that most patients receiving narcotic medications are receiving them in a perfectly legitimate way. MBC investigators also have no interest in discouraging physicians from prescribing narcotic analgesics to patients suffering from medical conditions causing pain; that is why so much time is spent distinguishing the legitimate pain management practice from the pharmaceutical drug peddler. Investigators are mandated to receive specialized training in pain management cases to make certain physicians who follow the intractable pain guidelines (Business and Professions Code section 2241.5) are not disciplined for over-prescribing. Also unique to these cases is that once investigators obtain medical records, interview all of the relevant parties, and interview the physician, if it appears there may be a violation of law, the case must be reviewed by two experts: one whose specialty is pain management, and one whose specialty is that of the prescribing physician. That is important for you to know: We investigators do not decide whether the

standard of care has been met. Your peers make that determination. Our job is to provide the board's peer reviewers with the best information possible from which to render an unbiased and thorough opinion.

The Medical Board's Web site, www.mbc.ca.gov, is an information glutton's dream. While there, you can find guidelines and laws regarding pain management, prescribing, ordering CURES reports and the Diversion Program (among many other subject matters). This is an excellent resource to familiarize yourself with these and other issues, and there are numerous resources available to you online, if you have concerns about a patient, a colleague, or your own situation.

In the spirit of gluttony, I have grossly exceeded my allocated space. Now I must scamper off to rescue my ice cream before it melts or heaven forbid, someone wants to share it!

Coming up next: *greed*



News from the U.S. Food and Drug Administration

Recalls of FDA-regulated products

Most recalls of products regulated by the FDA are voluntary. A problem or a potential problem is discovered and then a product recall is initiated in cooperation with the FDA. In some instances, a company recalls the product after the FDA raises concerns. This action could occur after the agency inspects a manufacturing facility or evaluates reports of health problems. In rare cases, the FDA “requests” a recall. FDA has the authority to “order” a recall in some cases involving infant formulas, biological products, and devices that present a serious hazard to health.

Once a recalled product is referred, the appropriate FDA product center convenes a board of experts who evaluate the health hazard associated with the recall. Scientists evaluate factors such as whether any diseases and injuries already have occurred; what risks apply to various segments of the population, including children, pets, and surgical patients; the degree of seriousness of the health hazard; and the volume of product involved and the distribution. Following the evaluation, the recall receives a classification to indicate the relative degree of the health hazard.

Class I: A Class I recall involves a situation in which there is reasonable probability that the use of or exposure to the product will cause serious health problems or death.

Class II: A Class II recall means that the use of or exposure to the product may cause temporary or medically reversible health problems or that the probability of serious health problems is remote.

Class III: A Class III recall is the least serious and indicates that exposure to the product is not likely to cause health problems.

For most Class I recalls, the company issues a press release to the media. The FDA may also issue a press release, if necessary. All recalls can be found in the FDA’s weekly Enforcement Report, posted at www.fda.gov/opacom/Enforce.html. Companies must report the name of the product being recalled, the lot or serial numbers, the reason for the recall, what customers are being instructed to do and how products should be returned, if applicable.

To sign up for recall alerts, go to the FDA’s free e-mail lists page at www.fda.gov/emaillist.html and click on “FDA Recalls.”

Medical records *(Continued from cover)*

5. Instructions to patients on follow-up care.
6. Pathology and X-ray reports.
7. Justification for treatment.

Any practice errors which the physician may have made should be recorded objectively together with measures taken to correct the situation. Fraudulent alteration of records is a violation of the law and may subject the physician to civil penalties and disciplinary action. To make corrections, the physician should draw a horizontal line through the relevant comments and rewrite the correction in the margin, with signature and date. Errors should not be erased.

President’s Report *(Continued from page 2)*

licensees directly and to share some of my and the board’s perspectives. If you would like to arrange such a meeting, please contact our Webmaster at webmaster@mbc.ca.gov.

California is a leader among the states, and we are often viewed as a model for smaller, less populous states. Governor Schwarzenegger has signed executive orders directing state agencies to work together on various issues. The board is being consulted by the administration and the Legislature on specific matters such as chronic care and physician workforce needs. I will report through our newsletter on these measures as they wind through the legislative process.

Guidance on compliance with the HIPAA National Provider Identifier (NPI) rule

after the May 23, 2007 implementation deadline

The following are excerpts from the Web site of the U.S. Department of Health & Human Services' Centers for Medicare & Medicaid Services. To view this document in its entirety, go to www.cms.hhs.gov, and click on "NPI Compliance Contingency Guidance."

Background

To improve the efficiency and effectiveness of the health care system, Congress enacted the Health Insurance Portability and Accountability Act (HIPAA) of 1996, which included a series of "administrative simplification" provisions that required the Department of Health and Human Services (HHS) to adopt national standards for electronic health care transactions and code sets and identifiers to be used in those transactions. The final rule adopting the NPI as the standard, unique health identifier for health care providers was published on January 23, 2004, and became effective on May 23, 2005. All covered entities were to be in compliance with the NPI provisions by May 23, 2007, except for small plans, which must be in compliance by May 23, 2008.

Compliance means in part that the NPI must be used by covered entities to identify providers on all HIPAA-covered transactions that call for health care provider identifiers. Covered transactions that require a health care provider's identifier that are transmitted containing only legacy identifiers (identifiers in use today) or containing both legacy identifiers and NPIs would be noncompliant.

The NPI final rule was clear: May 23, 2007 is the final deadline for covered entities, other than small plans, to comply with HIPAA's NPI provisions. After that date, covered entities, including health plans (other than small health plans), may not conduct noncompliant transactions. HHS has received a number of inquiries expressing concern over the

health care industry's state of readiness. In response, the Department believes it is particularly important to outline its approach to enforcement of HIPAA's NPI provisions. The Department will continue to provide technical assistance to the industry and issue guidance on the NPI provisions and compliance requirements.

Enforcement approach

The Secretary has delegated to the Administrator of the Centers for Medicare & Medicaid Services (CMS) authority to enforce the electronic transactions, code set, security, and identifier provisions (i.e., non-privacy administrative simplification provisions) of HIPAA. CMS will focus on obtaining voluntary compliance and use a complaint-driven approach for enforcement. When CMS receives a complaint about a covered entity that appears to allege a failure to comply with a non-privacy administrative simplification provision of HIPAA, it will notify the entity in writing that a complaint has been filed. Following notification from CMS, the entity will have the opportunity to 1) demonstrate compliance; 2) document its good faith efforts to comply with the standards, and/or 3) submit a corrective action plan.

Good faith policy

CMS's approach will utilize the flexibility granted in section 1176(b) of the Social Security Act to consider good faith efforts to comply when assessing individual complaints. Under section 1176(b), HHS may not impose a civil money penalty where the failure to comply is based on reasonable cause and is not due to willful neglect, and the failure to comply is cured within a 30-day period. HHS has the authority under the statute to extend the period within which a covered entity may cure the noncompliance "based on the nature and extent of the failure to comply."

Helping patients who have no workers' compensation insurance

By David D. Bagheri, Prosecuting Attorney, and Dee Dee Porter, R.N., Legal Nurse Consultant

In California, employers are required to provide workers' compensation (WC) insurance coverage for their employees. Unfortunately, not all employers comply with the law. Unscrupulous employers fail to carry WC insurance, choosing instead to save money and place their employees at risk. This affects all Californians because state agencies and social programs absorb the costs of non-covered injuries. Those costs then strain the health care system and are ultimately passed on to taxpayers. The goal of this article is to enlist the help of the medical community in preventing the unjust treatment of injured workers, their families and the health care community itself.

Mr. X is a 50 year-old farmworker from North San Diego County. He suffered a laceration to his right hand while working in the fields. His employer did not have WC insurance and Mr. X did not receive prompt care. When he arrived at the emergency department three days later, he was diagnosed with tetanus. Mr. X was hospitalized for six weeks and, while in the ICU, required all the supportive care this catastrophic illness demands to keep him alive. He was in the ICU for half of his hospitalization. The systems that are normally in place to minimize the length of in-patient stays and provide home health care were unable to be used because there was no insurance coverage. Mr. X remained hospitalized until he no longer required skilled care, ultimately increasing the overall costs. Mr. X received his follow-up care through the community clinics which were forced to assume the costs that should have been covered by the WC system.

The costs for everyone involved with this case alone were substantial. In his physician's opinion, Mr. X would have required a year of concentrated physical therapy to recover sufficiently to ever work again and in all probability would never be able to return to his previous job. For the purpose of this article, let us assume that Mr. X, as an established farm worker, was earning \$600 per week. He had a home and family in the immediate area. Mr. X should have received approximately \$24,000 in total temporary disability to help his family through the immediate illness and year-long physical rehabilitation. If he ended up with a 30-40 percent whole person impairment, which is not unreasonable

given the severity of his illness, his age, and his occupation, he would have been due permanent disability of approximately \$45,000.¹ If he could not return to his previous work, Mr. X should have received additional financial assistance of \$4,500 for vocational rehabilitation. If his employer had purchased WC coverage, Mr. X would have also received the benefit of a nurse case manager to coordinate his recovery and his medical bills would have been paid. Unfortunately, we do not know if Mr. X was ever able to return to work.

Thankfully, this sort of (non-covered) catastrophic illness does not happen frequently; however, there are many instances of injuries and illness taxing the medical system because employers do not obtain WC coverage. Injured workers who do not require acute hospitalization will typically receive treatment at community clinics. These clinics do not always inquire if the problem is job related, and/or are often ill-equipped to deal with the necessary treatment and follow-up care required for occupational injuries. To combat this problem, the 1971 Legislature established the Uninsured Employers' Benefit Trust Fund. Regrettably, reports to date indicate that access to this fund is problematic at best for injured workers who have legal representation and next to impossible for those who do not.

What can be done to help these workers? Since not having WC insurance is a crime, a referral of having the "Suspected Lack of WC Insurance" to the California Department of Industrial Relations (DIR) will prompt them to inspect the business to verify insurance coverage. Referrals are simple — all it takes is a phone call to the local DIR office.² In San Diego, if the business is indeed uninsured, the District Attorney's Office is notified by DIR and can prosecute the employer. The violation calls for up to a year in jail and a minimum fine of \$10,000. During the litigation process, the DA will ask the court to order restitution to the patient and also to the health care providers whose services have not been reimbursed.

When making such a referral, there is always a concern over what HIPAA will allow to be disclosed. The regulation's standard governing disclosure of protected health information is intended to balance the need of law enforcement agencies for protected health

(continued on page 12)

Consumer corner

Summarize your medical history

The following are steps to create your own medical record as a quick reference for yourself or a physician (particularly useful in a medical emergency):

1. Request your records from your family physician.
Let your physician know that you are putting together your personal health record.
2. Keep your demographics updated: full name, date of birth, sex, health insurance information (provider, policy number), next of kin and/or Power of Attorney for Health Care, addresses and phone numbers, name and phone number of family physician, and name and phone number of pharmacy.
3. List your medical history: all known medical diagnoses, surgeries, allergies — especially to medications and what reaction you had, and names and specialties of any physicians whom you continue to see.
4. Include a complete list of medications you take.
5. Summarize the results of any medical tests you have had.
6. Consider writing advanced care directives, and include a preference on donating your organs.
7. Type the information or print from your computer. Sign and date the page(s). Keep the informational sheet with you.

EDD to simplify process for provider certification of disability insurance (DI) claims

by Heather Liddicoat, DIA Project Analyst
California Employment Development Department
Disability Insurance Branch

Seeking ways to improve patient care and reduce overhead? Tired of filling out paper forms? The Employment Development Department (EDD) Disability Insurance Branch (DIB) is now gathering business and technical requirements for the Disability Insurance Automation (DIA) Project. DIA will reduce customer expense, improve service, and offer more claim filing options.

Key features will:

- allow medical providers to submit DI claim information through a secure electronic interface.
- give patients an option to file their DI claims online.
- ensure secure transmission of personal health information by adopting Health Insurance Portability and Accountability Act (HIPAA) practices.
- continue to accept paper forms; however, redesign key forms to facilitate scanning and imaging.

These features will allow DI to move away from manual claim intake and reduce processing time. The project is scheduled for completion in January 2011.

For more information about this innovative venture, visit EDD's Web site at www.edd.ca.gov/dia or contact Heather Liddicoat at diaproj@edd.ca.gov.

Workers' compensation insurance *(continued from page 11)*

information against an individual's right of privacy. In cases involving an uninsured employer's injured worker, disclosure of the employer's name and the worker's medical bills is permissible, and is justified by a public purpose that outweighs the individual's privacy interests.

Without a referral, DIR remains unaware of the illegal practice and the employer continues operations without insurance, further placing employees at risk. Consequently, the District Attorney's Office is not informed of the violation and is unable to file criminal charges or request restitution. Worst of all, the patient and his family are unjustly punished and financially devastated by an employer who chose not to purchase WC insurance.

The referral procedure is not an attempt to revamp the system — that is being addressed by various state

agencies, concerned health care providers, and legislators. We hope that a referral for the "Suspected Lack of WC Insurance" would lead to your fees being paid through the criminal process, uninsured businesses being brought into compliance, and, most important, injured workers receiving the benefits to which they are entitled.

David D. Bagheri is a prosecuting attorney with the San Diego District Attorney's Office, Insurance Fraud Division. He can be reached at (619) 685-6640.

Dee Dee Porter, RN, is a legal nurse consultant with the San Diego District Attorney's Office, Insurance Fraud Division. She can be reached at (619) 531-3031.

¹ These figures are based on the American Medical Association *Guides to the Evaluation of Permanent Impairment*, 5th edition, and with no additional medical information.

² A statewide list of DIR offices and phone numbers is located at www.dir.ca.gov/dlse/DistrictOffices.htm.

Administrative actions: February 1, 2007 — April 30, 2007

Physicians and surgeons

ACOSTA, EMMANUEL GALANG, M.D. (C52000) Windermere, FL

Disciplined by Florida for prescribing prescription drugs online without conducting a physical examination and failing to provide a plan of care, follow-up treatment, or monitoring of a patient prior to or after prescribing. Revoked, stayed, placed on 2 years probation with terms and conditions including, but not limited to, completing a medical record keeping course, an ethics course, a prescribing practices course; and obtaining a practice monitor. February 25, 2007

ALAMY, MOUSTAFA EL, M.D. (A48912) Paramount, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, dishonesty, excessive treatment, and failure to maintain adequate and accurate medical records in the care and

treatment of multiple patients. Revoked, stayed, placed on 4 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 medical record keeping course, an ethics course; and obtaining a practice and billing monitor. April 2, 2007

ALAVI, MUNAWAR, M.D. (A37226) San Jose, CA

Stipulated Decision. No admissions but charged with repeated negligence acts, gross negligence, incompetence, and failure to maintain adequate and accurate medical records in the care and treatment of 1 patient. Physician completed a medical record keeping course, a clinical training program, and paid cost recovery of \$3,000. Public Reprimand. February 27, 2007

Copies of public documents from 2004 to the present are available at www.mbc.ca.gov. Click on "Enforcement Public Document Search," or for copies of all public documents call the Medical Board's Central File Room at (916) 263-2525.

Explanation of disciplinary language and actions

"Effective date of decision" —

Example: "March 8, 2007" 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 pending" — The disciplinary decision is being challenged through the court system, i.e., Superior Court, Court of Appeal, or 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.

"Public Letter of Reprimand" — A lesser form of discipline that can be negotiated for minor violations, usually 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, five years probation on terms and conditions, including 60 days suspension" —

"Stayed" means the revocation is postponed. 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 formally 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.

ALCALA, HILDA JIMENEZ, M.D. (A99618)
Chicago, IL

Stipulated Decision. Failed to disclose a misdemeanor conviction for petty theft on her application for medical licensure. Probationary license issued, placed on 3 years probation with terms and conditions including, but not limited to, completing an ethics course and providing 120 hours of free, non-medical community service. Decision effective March 23, 2007, probationary license issued April 6, 2007.

AMSDEN, NEAL F. (A15208)
Laguna Beach, CA

Stipulated Decision. Disciplined by Idaho for prescribing excessive amounts of controlled substances for himself and his wife. Surrender of license. March 26, 2007

ANDELMAN, ROBERT PAUL, M.D. (G30552)
Portland, TX

Disciplined by Texas for his care and treatment of two emergency department patients. Public Letter of Reprimand. April 11, 2007

Board certified expert reviewers needed

The Medical Board of California established its Expert Reviewer Program in July 1994 as an impartial and professional means to support the investigative and enforcement functions of the board. Specifically, medical experts assist the board by providing expert reviews and opinions on board cases and conducting professional competency exams.

The rate of payment for expert review services is \$100/hour for conducting case reviews and \$200/hour for providing expert testimony. Experts are also reimbursed for travel expenses within the limits imposed by the state.

The board is particularly in need of physicians who are board-certified and actively practicing medicine in California in the following specialties and specific areas of the state.

- **Interventional cardiology** (statewide)
- **Dermatology** (Los Angeles County/Southern California): Specifically, dermatologists actively performing IPL
- **Gastroenterology** (statewide): Specifically, gastroenterologists performing endoscopic ultrasound
- **Infectious disease**: Board-certified (Southern California or statewide)
- **Neurosurgeons** (actively practicing)

- **Orthopaedic surgery** (actively practicing in Los Angeles County/Southern California)
- **Pain medicine** (Los Angeles County/Southern California): must be board-certified
- **Pediatric cardiology** (statewide)
- **Pediatric infectious disease** (statewide): Board-certified and practicing in an academic setting
- **Reproductive endocrinology** with a subspecialty in infertility (statewide)
- **Sleep medicine** (statewide): Board-certified by the American Board of Sleep Medicine
- **Spine surgery** (statewide)
- **Thoracic surgery** (actively practicing in Los Angeles County)
- **Urology** (statewide): Specifically, urologists performing organ transplants

If you are interested in providing expert review services to the Medical Board, and your expertise falls under one or more of these categories, please contact:

Susan Goetzinger, Program Analyst
Expert Reviewer Program
Medical Board of California
320 Arden Avenue, Suite 250
Glendale, CA 91203
(818) 551-2117
sgoetzinger@mbc.ca.gov

ARON, MORRIS BENEDICT, M.D. (G20328)
Templeton, CA

Stipulated Decision. Convicted of misdemeanors for driving under the influence of alcohol and exhibiting a deadly weapon; and used alcohol to the extent as to be injurious to himself and others. Public Reprimand. March 7, 2007

ASHRAF, MOHAMMAD, M.D. (A35686)
Madera, CA

Stipulated Decision. Committed acts of gross negligence in the care and treatment of 1 patient. Revoked, stayed, placed on 35 months probation with terms and conditions including, but not limited to, completing a clinical training program and a medical record keeping course; and obtaining a practice monitor. March 12, 2007

BARRIOS, MARTIN ACEVEDO, M.D. (A98926)
Tampa, FL

Failed to disclose on his application for medical licensure a misdemeanor conviction for receiving stolen property and a misdemeanor for driving under the influence of alcohol. Probationary license issued, placed on 5 years probation with terms and conditions including, but not limited to, completing an ethics course. Decision effective December 9, 2004, probationary license issued February 16, 2007.

BITTER, PATRICK HENRY, JR., M.D. (G50914)
Los Gatos, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, unprofessional conduct, dishonesty; and failure to maintain adequate and accurate medical records in the care and treatment of 5 patients. Revoked, stayed, placed on 1 year probation with terms and conditions including, but not limited to, completing an ethics course and a prescribing practices course. April 2, 2007

BORRELL, LEO JAMES, M.D. (C31240)
Houston, TX

Disciplined by Texas for providing a second opinion implying he had seen a patient when in fact he did not examine the patient and for failing to examine a patient prior to, during, or after a laser treatment where the patient had a reaction to the treatment in a facility

where he was the medical consultant. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, completing an ethics course and a professional boundaries program. March 12, 2007

BRADLEY, CECIL ARTHUR, M.D. (C34133)
San Jose, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, and incompetence 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 obtaining a practice monitor. April 2, 2007

BRIGHT, ROBERT CLAYTON, JR. (A63567)
Pasadena, CA

Committed acts of gross negligence and sexual abuse, misconduct, or relations with a patient in the care and treatment of 2 patients. Revoked. March 16, 2007. Judicial review pending.

CHAU, PATRICK KIN-YEE (G68517)
Vancouver, WA

Stipulated Decision. Disciplined by Washington for inappropriate care and treatment of 5 patients. Surrender of license. March 8, 2007

**Check your physician profile on
the Medical Board's Web site**

Your address of record is public.
www.mbc.ca.gov

Click on "Licensee Information" and "Check My Profile."

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

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

CHEN, ROBERT CHINEN-YUAN, M.D. (A73437)
Las Vegas, NV

Stipulated Decision. Disciplined by Nevada for failure to provide adequate care to an emergency room patient. Public Reprimand. April 30, 2007

D'AMBROSIO, FRANCIS GERARD, M.D. (G73590)
Malibu, CA

Stipulated Decision. Committed acts of gross negligence in the care and treatment of 1 patient. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, prohibited from performing surgery until completion of a clinical training program; obtaining a proctor for the first 12 surgeries performed; and obtaining a practice monitor. April 2, 2007

DEVIA, ALVARO HERNAN, M.D. (C51454)
Reno, NV

Stipulated Decision. Disciplined by Nevada for failing to use reasonable care, skill, or knowledge in the care and treatment of 1 patient. Public Reprimand. February 15, 2007

FEDERHART, JAY BECKETT, M.D. (G84686)
Escondido, CA

Stipulated Decision. Disciplined by Nevada for failing to use reasonable care, skill, or knowledge in the care and treatment of 1 patient. Public Reprimand. February 15, 2007

FERRER, CARLOS BUSUEGO, M.D. (A37236)
Murrieta, CA

Stipulated Decision. Convicted of a felony for grand theft. Revoked, stayed, placed on 7 years probation with terms and conditions including, but not limited to, 4 months actual suspension; providing 480 hours of free, non-medical community service; completing an ethics course; and obtaining a practice and billing monitor. February 5, 2007

FLANIGAN, GEORGE DALTON, III, M.D. (A47749)
Los Angeles, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, and failure to maintain adequate and accurate medical records in the care and treatment of 1 patient; and convicted of a misdemeanor for being an accessory after

the commission of a felony. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing a clinical training program, an ethics course, a medical record keeping course; and obtaining a billing monitor. February 15, 2007

GHOSH, BHARATI, M.D. (A34230)
Montclair, CA

Committed acts of gross negligence, incompetence, repeated negligence, and failure to maintain adequate and accurate medical records in the care and treatment of multiple patients. Revoked, stayed, placed on 7 years probation with terms and conditions including, but not limited to, completing a clinical training program and an educational course in addition to required CME; and obtaining a practice monitor. February 28, 2007

GORE, BERNARD ZAK, M.D. (G16401)
San Rafael, CA

Stipulated Decision. No admissions but charged with acts of gross negligence, incompetence, and dishonesty when serving as a forensic expert in a civil suit and an administrative case. Revoked, stayed, placed on 35 months probation with terms and conditions including, but not limited to, completing an ethics course and an educational course in addition to required CME. April 9, 2007

GROSS, JOEL ALAN (G44417)
Lafayette, CA

Stipulated Decision. Violated federal and state drug laws by forging prescriptions for controlled substances for his personal use. Surrender of license. February 21, 2007

GROVEMAN, JOSEPH E., M.D. (A17870)
Palm Springs, CA

Stipulated Decision. Committed acts of unprofessional conduct by aiding and abetting the unlicensed practice of medicine and delegating authority to a physician assistant without a written delegation-of-services agreement. Revoked, stayed, placed on 1 year probation with terms and conditions including, but not limited to, completing an ethics course and obtaining a practice monitor. April 12, 2007

HATHERLEY, JOHN ANTHONY, M.D. (G52940)
Huntington Beach, CA

Violated the terms and conditions of a board-ordered probation by failing to abstain from the use of alcohol, being terminated from the Diversion Program, and ordering a dangerous drug outside his practice as an emergency room physician. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, prohibited from ordering, prescribing, dispensing, administering, or possessing any controlled substances except while performing duties as an emergency room physician; prohibited from issuing an oral or written recommendation or approval for the possession or cultivation of marijuana; maintaining a record of all controlled substances prescribed, dispensed, administered, or possessed and any recommendation or approval to possess or cultivate marijuana; abstaining from the use of controlled substances and alcohol; submitting to biological fluid testing; completing the Diversion Program; completing an educational course in addition to required CME; and obtaining a practice monitor. February 23, 2007

HINES, DEMETRIUS DEVAUGHN (A75764)
Oakland, CA

Committed acts of repeated negligence, gross negligence, incompetence, and failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Revoked. April 12, 2007

KIRSHBAUM, ROBERT J., M.D. (G9868)
Rancho Cucamonga, CA

Stipulated Decision. Committed acts of repeated negligence and gross negligence in the care and treatment of 1 patient. Physician must complete a medical record keeping course and an ethics course. Public Reprimand. February 26, 2007

KOMOROWSKA-TIMEK, EWA DAGMARA, M.D. (A77833)
Loma Linda, CA

Committed acts of gross negligence by failing to remove the entire tourniquet from a patient's finger which resulted in the amputation of the finger. Public Letter of Reprimand. March 27, 2007

KOTLEWSKI, GEORGE (G31227)
Amherst, NY

Disciplined by New York for failing to meet the standard of practice in his care of 1 patient. Surrender of license. March 28, 2007

KRAMER, RAYMOND DAVIES (G48896)
Redlands, CA

Practiced medicine while under the influence of drugs or alcohol and prescribed controlled substances for his personal use. Revoked. February 13, 2007

KUPFERSCHMIDT, WILLIAM (A33537)
Hawthorne, CA

Convicted of a felony for mail fraud. Revoked. March 28, 2007

LAWRENCE, ALLEN LEIZEROWITZ, M.D. (A22501)
Desert Hot Springs, CA

Stipulated Decision. Prescribed dangerous drugs or devices to multiple patients on the Internet without a good faith prior exam or medical indication. Physician must complete a medical record keeping course and a prescribing practices course and pay a fine of \$2,000. Public Reprimand. March 12, 2007

LEE, SONDR A BENAY, M.D. (A71268)
Lancaster, CA

Committed acts of gross negligence in the care and treatment of 1 patient. Public Reprimand. March 2, 2007. Judicial review pending.

Use care when identifying the licensees in these summaries

Some physicians have the same name or a similar name. To ensure that you have identified the correct physician in your search, take additional steps and check the city and/or license number carefully. While a few same-named physicians may practice in a particular city, they never will have the same license number.

LIMPIN, JUANITA E. (A22422)
Sacramento, CA

Violated several terms and conditions of her board-ordered probation and has a condition affecting her ability to practice medicine safely. Revoked.
February 7, 2007

LIU, SAMANTHA LANDIE (G77884)
San Mateo, CA

Committed acts of repeated negligence, gross negligence, incompetence, failure to maintain adequate and accurate medical records, alteration or modification of medical records, dishonesty or corruption, unprofessional conduct, and sexual misconduct in the care and treatment of 1 patient. Revoked. April 9, 2007. Judicial review pending.

LUCERO, KENNETH GRANT, M.D. (G60508)
Blythe, CA

Stipulated Decision. No admissions but charged with gross negligence and incompetence in the care and treatment of 1 patient. Physician must complete a clinical training program. Public Reprimand.
April 23, 2007

MACIAS, RICHARD JOSEPH, M.D. (A42168)
Atascadero, CA

Stipulated Decision. Failed to maintain an accurate and complete record of telephone consultations with emergency department physicians during the care and treatment of 1 patient. Physician completed a medical record keeping course. Public Reprimand.
March 30, 2007

MAO, YVONNE, M.D. (A73790)
Los Angeles, CA

Convicted of a misdemeanor for theft of property with priors. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing an ethics course. April 2, 2007.
Judicial review pending.

MARKS, ERIC ADAM, M.D. (G71565)
Beaumont, TX

Stipulated Decision. Disciplined by Texas for failing to meet the standard of care in evaluating and monitoring the treatment of a patient who presented with complaints of chest pain and shortness of breath. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, completing a clinical training program and an educational course in addition to required CME.
April 9, 2007

MASELLY, MICHAEL JOSEPH, M.D. (C42779)
East Syracuse, NY

Stipulated Decision. Disciplined by New York for negligence and failure to maintain adequate and accurate medical records in the care and treatment of 5 patients. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, completing a clinical training program, a medical record keeping course; and obtaining a practice monitor.
February 9, 2007

MINKS, WILLIAM JOSEPH (C39424)
Des Moines, IA

Convicted of unlawfully carrying a concealed, unregistered handgun and has a condition affecting his ability to practice medicine safely. Revoked.
March 30, 2007

MOSSER, ROBERT STANLEY (CFE36586)
Bakersfield, CA

Stipulated Decision. No admissions but charged with repeated negligent acts and gross negligence in the care and treatment of 5 patients and incompetence in the care and treatment of 2 patients. Surrender of license.
March 22, 2007

NASH, ZEV-DAVID (G65398)
Montgomery, AL

Stipulated Decision. Disciplined by Alabama for substituting saline for flu vaccine and providing injections of such at a flu shot clinic. Surrender of license. April 9, 2007

NYAMATHI, ESWAR APPA, M.D. (A40919)
Northridge, CA

Stipulated Decision. Committed acts of gross negligence by failing to transfer a patient to a full service hospital after the patient suffered a cardiac arrest during a surgical procedure. Revoked, stayed, placed on 35 months probation with terms and conditions including, but not limited to, completing a clinical training program, an ethics course, and a medical record keeping course. April 9, 2007

O'BRIEN, THOMAS PATRICK (C50833)
Seattle, WA

Stipulated Decision. Disciplined by Washington for violating physician-patient boundaries in his care and treatment of a patient. Surrender of license. February 7, 2007

PANCIO, MARK (A91394)
Sacramento, CA

Stipulated Decision. Self-abused controlled substances. Surrender of license. April 10, 2007

PETERS, KATHERINE ANN (G67313)
Escondido, CA

Convicted of misdemeanors for driving under the influence of alcohol, petty theft, petty theft with a prior, and battery on a peace officer. Revoked. February 26, 2007

PEVSNER, PAUL HERSHEL, M.D. (G21659)
New York, NY

Stipulated Decision. Disciplined by New Jersey and Virginia for failing to retain retrievable forms of patients' MRIs which he interpreted, issuing MRI interpretation reports for corporate entities not properly licensed, issuing reports on letterhead of entities in which he held no ownership or contractual interest, offering medical professional services through an impermissible corporate structure, and submitting claim forms for corporate entities which were not licensed. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, 2 years actual suspension; prohibited from the solo practice of medicine; providing 60 hours of free, non-medical community service; completing an ethics course and an educational course in addition to required CME; and obtaining a practice and billing monitor. April 16, 2007

PRINCE, LUTHER TERRANCE, III, M.D. (G71693)
Minneapolis, MN

Stipulated Decision. Disciplined by Minnesota for having a condition that affected his ability to practice medicine safely. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, prohibited from the solo practice of medicine and obtaining a practice monitor. April 26, 2007

REISER, JEFFREY MARC (G32548)
Lincoln, CA

Stipulated Decision. No admissions but charged with having a condition affecting his ability to practice medicine safely, self-abused controlled substances, and sexual misconduct with a patient. Surrender of license. April 3, 2007

Medical Board's Subscribers' List

If you are interested in joining the Medical Board of California's Subscribers' List to obtain e-mail updates of MBC's newsletter; Hot Sheet; meeting agendas, notices, and minutes; and regulations, please go to **www.mbc.ca.gov/subscribers.htm**.

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NEW!

The board is pleased to announce a new Subscribers' List for those interested in receiving e-mail notifications of license suspensions, restrictions, revocations, and surrenders for physicians and surgeons. As a subscriber, you will receive notification of any of the above actions on or immediately after the effective date of the action.

If you wish to subscribe to this list, please go to **www.mbc.ca.gov/subscribers.htm** and follow the instructions for subscribing.

RICHTER, RALPH W. (G4749)**Tulsa, OK**

Stipulated Decision. Disciplined by Oklahoma for reflecting in chart entries for patients in clinical studies that he conducted examinations, provided care and treatment and evaluated ECG reports when he had not. Surrender of license. April 25, 2007

ROSENBLATT, MICHAEL M. (CFE34153)**Burlington, IA**

Stipulated Decision. Disciplined by Iowa for engaging in unprofessional conduct. Surrender of license. April 9, 2007

ROSTAMI, BABAK BOBBY, M.D. (A99776)**Torrance, CA**

Stipulated Decision. Convicted of a misdemeanor for reckless driving. Probationary license issued, placed on 5 years probation with terms and conditions including, but not limited to, completing the Diversion Program, abstaining from the personal use or possession of controlled substances and alcohol, and submitting to biological fluid testing. Decision effective April 5, 2007, probationary license issued April 20, 2007.

ROUHE, RICHARD L., M.D (G12642)**Corona, CA**

Stipulated Decision. Committed acts of repeated negligence in the care and treatment of 2 patients and gross negligence 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, an educational course in addition to required CME; and prohibited from supervising physician assistants as a solo practitioner. April 26, 2007

SALAZAR, FAUSTO A., M.D. (A22223)**Clovis, CA**

Committed acts of incompetence by failing a competency assessment. Revoked, stayed, with the condition he must pass a professional competency examination or the stay will be vacated and his license will be revoked. April 19, 2007

SANDHU, RAJWANT SINGH (A41264)**Roseville, CA**

Stipulated Decision. Violated the terms and conditions of his board-ordered probation by failing to maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed; being terminated from the Diversion Program; and submitting inadequate practice and billing monitor reports. Surrender of license. February 21, 2007

SCOTT, LEONARD K. (A28912)**Budapest, Hungary**

Violated the terms and conditions of his board-ordered probation. Revoked. February 28, 2007

SCRUGGS, RAMON, M.D. (G48978)**Tustin, CA**

Stipulated Decision. No admissions but charged with violating federal or state drug statutes, prescribing over

Drug or alcohol problem? Mental illness?

If you have a drug or alcohol problem, or are suffering from a mental illness, you can get help by contacting the Medical Board's confidential Diversion Program.

Information about a physician's participation in the Diversion Program is confidential. Physicians who enter the program as self-referrals without a complaint filed against them are not reported to the Enforcement Program of the Medical Board.

Contacting the Diversion Program does not result in the filing of a complaint with the Medical Board.

www.mbc.ca.gov

(916) 263-2600 or (866) 728-9907 (toll-free)

All calls are confidential.

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

the Internet without a prior good faith examination and medical indication, repeated negligent acts, gross negligence, incompetence, and failure to maintain adequate and accurate medical records in the care and treatment of multiple patients; and unprofessional conduct by failing to take a board-ordered examination. Revoked, stayed, placed on 35 months probation with terms and conditions including, but not limited to, prohibited from prescribing over the Internet; maintaining a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed; completing a prescribing practices course, a medical record keeping course, an ethics course, an educational course in addition to required CME; and obtaining a practice monitor. March 2, 2007

SHELLCROFT, JOHN WESLEY, III (G44107)
Vacaville, CA

Convicted of a felony for corporal punishment to a cohabitant; uttered or conveyed a threat to a patient; and violated the terms and conditions of his board-ordered probation by failing to complete a clinical training program and failing to pay probation monitoring and cost recovery. Revoked. March 19, 2007

STOLL, SEYMOUR MARTIN, M.D. (A35055)
Beverly Hills, CA

Stipulated Decision. Failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Revoked, stayed, placed on 35 months probation with terms and conditions including, but not limited to, completing a clinical training program, a prescribing practices course, and a medical record keeping course. April 2, 2007

STONEFELD, DONALD FRANK (G17951)
Rhineland, WI

Stipulated Decision. Disciplined by Wisconsin for violating the appropriate boundaries between a psychiatrist and a patient. Surrender of license. March 26, 2007

SUN, ANDREW S., M.D. (G13537)
Monterey Park, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, dishonesty, failure to maintain adequate and accurate medical records, and prescribing without a good faith prior examination and medical indication in the care and treatment of 2 patients. Revoked, stayed, placed on 4 years probation with terms and conditions including, but not limited to, prohibited from prescribing, dispensing, administering or possessing any controlled substances, and surrendering all controlled substance prescription forms until completion of a prescribing practices course and a medical record keeping course; maintaining a record of all controlled substances prescribed, dispensed, or administered or possessed, and any recommendation or approval for marijuana; and completing an ethics course and an educational course in addition to required CME. April 30, 2007

TEHRANI, ABOLGHASEM M., M.D. (A38064)
Los Angeles, CA

Stipulated Decision. Convicted of a felony for workers' compensation insurance fraud. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, 6 months actual suspension and completion of an ethics course. March 2, 2007

Medical consultants needed

Are you interested in being an integral part of the Medical Board of California as a medical consultant? Do you have the ability to conduct effective interviews, exercise sound judgment in reviewing conflicting medical reports and preparing opinions, and analyze problems and take appropriate action? If you can work eight to 16 hours per week, we currently have vacancies in our Valencia and Diamond Bar district offices. For additional information on minimum qualifications, please contact Laura Sweet at (562) 402-4668.

THANOS, JERALD JOHN, M.D. (A46502)
Fullerton, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, and incompetence in the care and treatment of 1 patient. Physician must complete a clinical training program. Public Reprimand. March 19, 2007

THOMPSON, LENARDO DANNY (G69595)
Pensacola, FL

Convicted of felonies for spousal abuse and assault and a misdemeanor for child abuse; self-abused alcohol; and has a condition affecting his ability to practice medicine safely. Revoked. April 27, 2007

TORRES-RUIZ, CECILIO (A53081)
Orlando, FL

Disciplined by Florida for failing to provide a patient with medical records and failing to timely sign a death certificate. Revoked. February 2, 2007

VAN DOREN, JOHN DERRICK (G60750)
Murrieta, CA

Violated the terms and conditions of his board-ordered probation by failing to complete the Diversion Program. Revoked. April 30, 2007

VANEK, CHAIM, M.D. (A77368)
Portland, OR

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, dishonesty, prescribing without a good faith prior examination or medical indication, making or signing false documents, creating false medical records, violating federal or state drug statutes, failure to maintain adequate and accurate medical records, and unprofessional conduct in the care and treatment of 2 patients. Physician completed a clinical training program. Public Letter of Reprimand. April 11, 2007

WILLIAMS, RICHARD ANTHONY, M.D. (A40188)
San Dimas, CA

Aided and abetted the unlicensed practice of medicine. Public Reprimand. April 30, 2007

WINTERS, KENNETH B. (A33139)
Long Beach, CA

Stipulated Decision. Violating the terms and conditions of his board-ordered probation by failing to pass an oral clinical examination. Surrender of license. April 17, 2007

YANKOWITZ, PHILIP (A28039)
Calabasas, CA

Stipulated Decision. Physician has a condition affecting his ability to practice medicine safely. Surrender of license. February 2, 2007

YEARSLEY, STEVEN GARY (G84232)
Saint George, UT

Stipulated Decision. Disciplined by Utah for prescribing to an addict and fraudulently obtaining controlled substances for his wife. Surrender of license. March 2, 2007

YURK, ROBIN A. (G85617)
Studio City, CA

Physician has a condition affecting her ability to practice medicine safely. Revoked. April 26, 2007

DOCTORS OF PODIATRIC MEDICINE

GRAVES, RICHARD HENRY, D.P.M. (E3954)
Los Alamitos, CA

Stipulated Decision. Convicted of a felony for making a false statement regarding a health care matter; presenting false or fraudulent insurance claims; and committing repeated acts of negligence in the care and treatment of 1 patient. Revoked, stayed, placed on 7 years probation with terms and conditions including, but not limited to, paying restitution of \$200,000; providing 120 hours of free community service; completing a medical record keeping course, an ethics course, and a clinical training program; obtaining a practice and billing monitor; and ordered to pay cost recovery of \$12,017. March 9, 2007

LAI, CHUN-SUN, D.P.M. (E1996)**San Francisco, CA**

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, excessive prescribing, prescribing without a good faith prior examination or medical indication, failure to maintain adequate and accurate medical records, dishonesty, and unprofessional conduct in the care and treatment of 3 patients. Revoked, stayed, placed on 4 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; obtaining a practice monitor; and ordered to pay cost recovery of \$5,000.

February 5, 2007

O'MEARA, SEAN M., D.P.M. (EL1691)**Sacramento, CA**

Stipulated Decision. Failed to disclose 2 prior misdemeanor convictions for driving under the influence and criminal mischief on an application for licensure. Licensed issued, revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, abstaining from the use of alcohol, submitting to biological fluid testing, providing 50 hours of free community service, and completing an ethics course. March 5, 2007

PHYSICIAN ASSISTANTS**HAMLIN, JEFFREY MICHAEL, P.A. (PA16524)****Burney, CA**

Stipulated Decision. Practiced under the influence of drugs or alcohol during the care and treatment of 1 patient constituting gross negligence and incompetence; and self-administered controlled substances. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, may not practice medicine until surrender of DEA permit; abstaining from the personal use or possession of

controlled substances and alcohol; submitting to biological fluid testing; completing the Diversion Program; providing 96 hours of free medical services; maintaining a record of all controlled substances administered, transmitted, orally or in writing; having a supervising physician review all medical records daily and all controlled substances prescriptions weekly; completing an educational course in addition to required CME and an ethics course; and ordered to pay cost recovery of \$3,373. April 23, 2007

HENDERSON, MARIANNE (PA12641)**Chico, CA**

Committed acts of dishonesty by submitting an altered physician assistant license, working after her license had expired, presenting an altered receipt indicating she had paid her renewal fees, and submitting a check that was dishonored. Revoked. April 9, 2007

HENUBER, SARA ELIZABETH (PA17492)**St. Augustine, FL**

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, failure to perform a good faith prior examination, failure to maintain adequate and accurate medical records, dishonesty, acting without appropriate supervision, and unlawful prescribing by a physician assistant during the care and treatment of 2 patients. Surrender of license. February 27, 2007

CONTACT LENS DISPENSER**STEINBERG, NORMAN J. (CL884)****Sherman Oaks, CA**

Stipulated Decision. Convicted of a misdemeanor for practicing optometry without a license. Ordered to pay cost recovery of \$4,000. Surrender of certificate. March 6, 2007

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.**

See: [www.mbc.ca.gov/
Address_Record.htm](http://www.mbc.ca.gov/Address_Record.htm)



Medical Board of California Meetings—2007

July 26-27: San Francisco

November 1-2: San Diego

All meetings are open to the public.

Medical Board of California

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Ronald L. Moy, M.D., Vice President
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Janet Salomonson, M.D.
Ronald H. Wender, M.D.
Frank V. Zerunyan

Dave Thornton, Executive Director

Toll-free Complaint Line: 800-Med-Bd-CA (800-633-2322)

Medical Board:

Applications	(916) 263-2499
Complaints	(800) 633-2322
Continuing Education	(916) 263-2645
Diversion Program	(866) 728-9907
Health Facility Discipline Reports	(916) 263-2382
Fictitious Name Permits	(916) 263-2384
License Renewals	(916) 263-2382
Expert Reviewer Program	(818) 551-2117

Verification of Licensure/Consumer Information (916) 263-2382

General Information	(916) 263-2466
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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 Assistants	(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) 327-3433
Physical Therapy	(916) 263-2550
Respiratory Care	(916) 323-9983
Speech Pathology	(916) 263-2666

MEDICAL BOARD OF CALIFORNIA NEWSLETTER — JULY 2007

Candis Cohen, Editor (916) 263-2389

The *Medical Board of California Newsletter* is available in the "Publications" section of the board's Web site: www.mbc.ca.gov. For hard copies of this report, please fax your request to (916) 263-2387 or mail to: Medical Board of California, 1426 Howe Avenue, Suite 54, Sacramento, CA 95825.