



ACTION REPORT

BOARD OF MEDICAL QUALITY ASSURANCE

No. 17—January 1981

ALL SCHEDULE II CONTROLLED SUBSTANCES NOW ON TRIPLICATE

As a result of recent legislative action (AB 1250—refer to new California laws in this Action Report) all Schedule II controlled substances prescribed in California will require the official triplicate prescription effective January 1, 1981. In addition to those narcotics presently on the triplicate, it will be necessary to write prescriptions for all Amphetamines, Phenmetrazine (Preludin), Methylphenidate (Ritalin), Methaqualone (Quaalude), and the short-acting Barbiturates such as Amytal, Seconal, and Nembutal on the triplicate prescription.

Additionally, AB 1250 provides that a prescription for patients in licensed skilled nursing or intermediate care facilities may be dispensed by a pharmacist upon an oral prescription when failure to issue the prescription would, in the physician's opinion, present an immediate hazard to the patient's health and welfare, or result in intense suffering to the patient. In such cases, the pharmacist will write the prescription on a special triplicate form to be provided to those pharmacies dealing with these types of long-term care facilities. The person receiving the drugs at the facility must sign the form to acknowledge receipt of the controlled substances. A copy of this form is to be sent to the Department of Justice and the appropriate physician. The original is to be kept on file by the pharmacy.

Since this new procedure is limited to the emergency situations described above, it is not anticipated that it will be utilized frequently. It is not intended to relieve the prescribing physician of the need to write a triplicate prescription under normal circumstances.

Another provision of AB 1250 affects the current procedures which allow a physician to issue oral or plain blank prescriptions for Schedule II controlled substances for any patient in emergency situations where loss of life or intense suffering would otherwise result. In these circumstances, the prescribing physician, under present law, must deliver an official triplicate prescription to the pharmacy within 72 hours to cover the pharmacy's inventory. AB 1250 will now require the pharmacy to report any physician who does not furnish the required triplicate prescription to the Department of Justice within 144 hours from the time the prescription was filled.

Lastly, AB 1250 provides that the Department of Justice will preprint all triplicate prescriptions with the name and address of the physician when all existing supplies are exhausted. The Department is permitted to charge no more than actual cost of printing and distribution. An update of the Department's plans to comply with this legislation will be found at the end of this article.

In other legislation (AB 2378—refer to new California laws in this Action Report) also effective January 1, 1981, the Controlled Substances Act was amended to relieve certain hardships relating to the direct dispensing of Schedule II controlled substances by practitioners. Under current law, as clarified by a recent Attorney General's opinion (CR 78/27) reported in a notice to all California physicians dated May 1, 1979, a practitioner may not dispense Schedule II controlled substances under any circumstances.

The provisions of AB 2378 will authorize physicians, dentists, podiatrists, and veterinarians, as well as pharmacists, registered nurses and physician's assistants acting within the scope of a health manpower pilot project, to dispense Schedule II drugs to a patient, but only under limited circumstances. These circumstances are that the amount of Schedule II drugs dispensed may not exceed a 72-hour supply when used in accord with the directions of the dispensing practitioner, and that the patient is not expected to require any additional amount of the controlled drug beyond the 72-hour period. In addition, AB 2378 requires that drugs dispensed under the authorization be reported directly to the Department of Justice on an official triplicate prescription form. The Department has advised that practitioners may comply with this requirement by simply indicating on the face of the prescription that the drugs were "dispensed directly to patient by practitioner." Future printings of the triplicate form issued by the Department will contain this language and a box which may be checked to comply with this requirement.

The Department of Justice is preparing to issue the preprinted prescriptions authorized by AB 1250 as soon as its present supply is exhausted. It is estimated that this change will occur sometime between March 1 and April 1, 1981. In order for the Department to adapt the present prescription form to its high-speed printers and to allow sufficient space for the practitioner's printed name and address, it has been necessary to increase the height of the form from 3½" to 4". The new paper required has been ordered and is expected to arrive in time for the changeover. When the change is made, each issue of prescriptions will be sent to the practitioner with an enclosed invoice for the cost of the prescriptions. The invoice will contain instructions for the submission of payment. Practitioners are requested to refrain from sending payment with prescription orders.

Those practitioners who do not presently have a supply of triplicate prescriptions may obtain them by writing to the Department of Justice, Bureau of Narcotic Enforcement,

Post Office Box 13327, Sacramento, CA 95813. Be sure to enclose your current DEA registration number because the Department will utilize this to check your eligibility to receive the prescriptions. If you do not provide your DEA number, or if your registration is not current, or is faulty in any other way, a delay in the issuance of the prescription blanks will result.

Practitioners who are currently registered for federal Schedule 2N (non-narcotic Schedule II drugs only) will now be issued triplicates upon request. They should bear in mind, however, that mere possession of these triplicate prescriptions does not entitle them to issue prescriptions for Schedule II narcotics such as Demerol, Dilaudid or Morphine. Should they wish to write for these drugs, they must first change their DEA registration to include the Schedule II narcotics.

If you are not presently registered with the Drug Enforcement Administration and do not possess a DEA number, you should write to: Drug Enforcement Administration, 450 Golden Gate Avenue, San Francisco, CA 94102 or Drug Enforcement Administration, 350 So. Figueroa Street, Los Angeles, CA 90071. (The state dividing line for north and south offices is Fresno, which is included in the Northern California district.) Please do not write to the Bureau of Narcotic Enforcement in Sacramento relative to DEA registration. Only the Drug Enforcement Administration has the authority to issue registration numbers for this purpose.

NEW CALIFORNIA LAWS

The California Legislature enacted several statutes in 1980 that may directly affect your practice. Below is a brief summary of the major changes in laws dealing with the medical profession that became effective January 1, 1981.

AB 1250 (McCarthy)—Requires prescriptions for all Schedule II controlled substances (non-narcotic as well as narcotic) to be written on triplicate prescription forms issued by the Department of Justice. Triplicate prescription forms will be preprinted with the practitioner's name, address, and category of licensure. Cost to the practitioner will be limited to the actual cost of printing and distributing the triplicate blanks. Also, in specified situations, this legislation authorizes oral prescriptions for Schedule II substances for patients in skilled nursing and intermediate care facilities. Refer to the article in this issue entitled "All Schedule II Controlled Substances Now On Triplicate".

AB 2295 (Roos)—Makes it a misdemeanor to implant foreign materials, including synthetic fibers and strands of human hair from another person, within a person's scalp for the purpose of preventing or alleviating baldness.

AB 2378 (Statham)—Among other things, authorizes specified health care providers to directly dispense a 72-hour supply of a Schedule II controlled substance when a patient is not expected to require an additional amount. The provider is then responsible for transmitting an official triplicate prescription form for the dispensed substance directly to the Department of Justice. Refer to the article in this issue entitled "All Schedule II Controlled Substances Now On Triplicate".

AB 2885 (Egeland)—Deletes the requirement that medical and allied health corporations register with BMQA. See article, this issue.

AB 3127 (Duffy)—Creates a pilot program whereby the Division of Licensing may administer up to 10 loans a year. See article, this issue.

SB 1580 (Campbell)—Authorizes board certified medical oncologists to prescribe Laetrile for terminal patients or for patients in specified medical school programs upon the signing of an informed consent form. See article, this issue.

SB 1893 (Roberti)—Requires a physician treating a patient for breast cancer to provide the patient with a standard summary (written in layman's language) of alternative methods of treatment. The summaries are to be developed by the Department of Health Services on the recommendation of the Cancer Advisory Council and be printed and made available by BMQA.

NEW LAW AFFECTS USE OF LAETRILE

Effective January 1, 1981, SB 1580 (Campbell) authorizes medical oncologists certified by the American Board of Internal Medicine to prescribe Laetrile for terminal patients or for patients in specified medical schools upon the signing of an informed consent form.

Consent forms must meet certain requirements and a sample of the form being used must be on file with BMQA.

Contingent on the availability of federal funds, oncologists prescribing Laetrile will be required to submit reports to the Resource for Cancer Epidemiology Section of the Department of Health Services. The reports will provide information on the response of patients to Laetrile therapy and enable the Department to do an objective, impartial evaluation of its effectiveness in cancer treatment.

While this new law exempts new drug applications for Laetrile or Amygdalin from proof of effectiveness, it does not supersede existing provisions which require proof of safety.

For further information, contact the Cancer Advisory Council of the Department of Health Services, Food and Drug Section, (916) 445-2263.

PHYSICIAN INCENTIVE LOAN PROGRAM

Assembly Bill 3127 (Duffy) which becomes effective on January 1, 1981, establishes a loan program for physicians which is to be administered by the Division of Licensing. The intent of this legislation is to encourage physicians to locate in underserved communities. If a physician locates a new practice in an area which has been designated as deficient in primary care services, he/she may be eligible for a \$10,000 loan. Under the provisions of the Bill, the entire loan will be forgiven if the physician remains in the chosen practice location for two years.

There will be ten such loans available each year for the next five years. At that time the program will be fully evaluated to determine its efficacy. The first loans are expected to be awarded in the Spring of 1981. Specific information on eligible underserved areas and application procedures are available by writing to Ms. Patricia Griffin, Board of Medical Quality Assurance, 1430 Howe Avenue, Sacramento, California 95825.

DISCIPLINARY ACTIONS

July 1, 1980-September 30, 1980

Aisleben, Harry Rudolph, M.D. (A-28775)—Anaheim
2373 B&P Code
Criminal conviction for unlawful practice during term of suspension. Violation of probation under prior discipline.
Revoked.
July 11, 1980

Bosworth, Wesley F., M.D. (C-13610)—Anaheim
2361(b) B&P Code
Stipulated Decision. Gross negligence in failing to properly diagnose during course of six office visits the cause of sinusitis and bulging of swollen right eye. X-rays finally taken by subsequent MD revealed large lesion in the right maxillary antrum.
Revoked, stayed, five years probation.
July 28, 1980

Bottsford, Elmer, M.D. (A09935)—Ridgetop, Tennessee
2363 B&P Code
Discipline imposed on Tennessee license by that state's medical board.
Revoked.
August 11, 1980

Burks, Arthur Lynn, M.D. (A08983)—San Francisco
2391.5, 2399.5 B&P Code; 11154 H&S Code
Stipulated Decision. Prescribing Ritalin, a controlled drug, without good faith prior examination and medical indication, and to persons not under his treatment for a pathology or condition.
Revoked, stayed, five years probation with 60 days actual suspension.
September 8, 1980

Desilets, Donald T., M.D. (G-9705)—Palm Desert
Stipulated Decision. Violation of probation with respect to the need for continuing psychiatric treatment.
Revoked, stayed, ten years probation, including actual suspension until at least June 16, 1981.
August 21, 1980

Gaund, Frank L., M.D. (A-28132)—Lemon Cove
2361(b)(e) B&P Code
Stipulated Decision. Gross negligence and incompetence in performing plastic surgeries.
Revoked, stayed on satisfaction of conditions, then five years probation; six months actual suspension.
July 8, 1980

Lipp, Michael J., M.D. (C-2727)—Sacramento
Stipulated surrender of license.
Accusation dismissed.
August 29, 1980

Marsh, Paul K., M.D. (A-10441)—Ukiah
2361(b)(d) B&P Code
Although findings of gross negligence and incompetence detailed in Board's decision of May 1977 were upheld on judicial review, Court of Appeal remanded case for the making of an additional finding on a claimed defense, and for possible reconsideration. This has been done. Gross negligence and incompetence in numerous patient care cases.
Revoked.
August 29, 1980

McPeake, Robert A., M.D. (C-29201)—Norwalk
2411, 2361(e), 2391.5, 4390 B&P Code; 11157, 11(72, 11173(b) H&S Code
Making false statements on prescriptions that were unlawfully post-dated.
30 days suspension, stayed, six month probation.
September 2, 1980

Moncrief, Irvn H., M.D. (C-28829)—Pleasanton
2399.5, 700 B&P Code
Stipulated Decision. Excessive prescribing of dangerous drugs and controlled substances without good faith prior examination and medical indication.
Revoked, stayed, five years probation, 90 days actual suspension.
July 17, 1980

Morlock, Noel Louis, M.D. (C-36316)—Oak Harbor, Washington
2363 B&P Code
Discipline imposed on Washington license by that state's medical board for his discontinuance of a respirator with knowledge it would cause certain death to the patient.
Revoked.
July 17, 1980

Phu, Khuong Minh, M.D. (A-22451)—Moraga
2383, 2384, 2391.5, 2399.5, 2411 B&P Code; 11154 H&S Code
Criminal conviction for prescribing controlled substances to persons not under his treatment for a pathology or condition. Indiscriminate prescribing. False claims to Medi-Cal with intent to defraud.
Revoked.
August 8, 1980

Rathmann, William, M.D. (C-6257)—Hawthorne
2361(b), (d) B&P Code
Stipulated Decision. Gross negligence and incompetence in the diagnosis and treatment for osteoarthritis when there was insufficient basis for such diagnosis or treatment.
Revoked, stayed, five years probation.
July 17, 1980

Reed, Raymond L., M.D. (C-16141)—Torrance
2361(h) B&P Code
Stipulated Decision. Gross negligence in the performance of a therapeutic abortion by D&C procedure in a pregnancy that had progressed to 15-16 weeks. Gross negligence in proceeding with D&C and not properly treating major complications.
One year suspension, stayed, five years probation.
September 22, 1980

Reid, Newton H., M.D. (C-14395)—Westwood
2361, 2361(a), 2392 B&P Code
Forcing sexual discussions, using vulgar language on a female patient during a breast examination. Also, aiding and abetting unlicensed employee in unlawful practice of medicine. Board's decision of December 11, 1975 recently upheld by Court of Appeal. State Supreme Court denied further hearing, making the Board's decision now final.
Revoked, stayed, five years probation.
July 2, 1980

Schill, Carl Robert, M.D. (A-13736)—Camarillo
2361 B&P Code
Failed and continued to refuse to prepare complete medical records for numerous patients in a hospital.
30 days suspension, stayed, three years probation.
July 17, 1980

Schroeder, Carl W. F., M.D. (A-12564)—Anaheim
2399.5, 700, 2361(f), 2411 B&P Code
Stipulated Decision. Prescribing dangerous drugs without a prior good faith examination and medical indication. Excessive prescribing. Aiding and abetting the unlawful practice of medicine. Knowingly making a false document related to medicine.
Revoked, stayed, ten years probation, actual suspension from practice for 180 days.
July 2, 1980

Sullivan, Robert Donald, M.D. (G-18068)—Beverly Hills
725 B&P Code
Stipulated Decision. Repeated acts of clearly excessive use of diagnostic or treatment facilities by hospitalizing patients for diagnostic studies when the same might have been done on an out-patient basis.
One year suspension, stayed, two years probation.
September 22, 1980

Taylor, Horace B., M.D. (G-1414)—Lompoc
2417, 2399.5 B&P Code
Prescribing dangerous drugs without a good faith prior examination and medical indication. Mental illness affecting ability to practice safely.
Revoked, stayed, ten years probation, no resumption of practice until deemed mentally and medically fit to practice safely.
July 29, 1980

Thouin, Laurence Gonzague, M.D. (C-26540)—Anaheim
Stipulated surrender of license resulting in dismissal of accusation.
August 8, 1980

Washington, G. Kenneth, M.D. (C-32034)—Sacramento
2361, 2391.5, 2399.5 B&P Code; 11190, 11191, 11154 H&S Code
Numerous acts of sexual abuses upon female patients. Prescribing dangerous drugs without prior good faith examination and medical indication, and to a person not under his treatment for a pathology or condition. Failure to keep records of prescriptions.
Revoked.
September 8, 1980

Yeh, Owen Yun-Ying, M.D. (A-19917)—Hayward
2361(b)(d) B&P Code
Stipulated Decision. Gross negligence in two separate surgeries, and gross negligence and incompetence in another surgery involving the repair of mandibular fractures.
Revoked, stayed, five years probation with numerous conditions.
July 18, 1980

MEDICAL CORPORATIONS NO LONGER REQUIRED TO REGISTER WITH BMQA

With the enactment of Assembly Bill 2885 (Egeland), sections of the Medical Practice Act have been repealed which required medical corporations to file a copy of their Articles of Incorporation and register with BMQA. This law becomes effective January 1, 1981 and previously registered corporations will no longer be required to file Annual Reports or Change of Status Reports to BMQA. The law not only affects physicians and podiatrists with medical corporations, but other professional corporations for licensees engaged in acupuncture, speech pathology, audiology, physical therapy, and psychology.

Corporations are to continue filing of Articles of Incorporation with the Secretary of State and comply with the laws and regulations of that office.

WALLET CERTIFICATES

Every physician, when licensed, receives a small pocket ID card and a wall certificate. The physician retains the wall certificate and receives a new pocket ID card at each renewal period which contains the physician's license number and expiration date.

At a recent meeting of the Division of Licensing, the Division considered the complaint made by a few physicians that the current renewal receipt and pocket ID card is not as attractive as those issued in past years.

Our parent agency, the Department of Consumer Affairs, decided to convert all licenses issued by its boards and bureaus to the standard form now in use. The decision was made because uniformity meant lower costs through computer generation of cards and avoidance of costs associated with each board and bureau reproducing its own special identification card. Cost reduction activities such as standardization of identification cards has permitted retention of the present level of fees during periods of inflationary increases in cost.

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Assembly Bill 2885 *does not* negate the requirement for medical corporations, partnerships and individuals to obtain a Fictitious Name Permit when engaged in a medical practice under any name other than his/her own. The use of any fictitious, false or assumed name, or any name other than his/her own, without obtaining a Fictitious Name Permit from BMQA is a violation of the Medical Practice Act and constitutes unprofessional conduct.

If Dr. John Doe desires to practice medicine as "Dr. John Doe" or incorporate as "Dr. John Doe, Inc.", no Fictitious Name Permit is required. If, however, he proposes to operate as the "Doe Medical Clinic" or the "Westside Medical Group", a Fictitious Name Permit is required. If you would like additional information, call Mr. Don Nordstrom at (916) 920-6353.

ATTENTION ONCOLOGISTS

Applications for the second phase of the California Therapeutic Marijuana Program for cancer patients are being accepted until February 15, 1981. Contact the Research Advisory Panel, 6000 State Building, San Francisco, CA 94102, (415) 557-1325.

NEW APPOINTMENTS

Board of Medical Quality Assurance:

Luis Escandon, M.D., West Covina, Division of Allied Health Professions

Lawrence N. Hill, M.D., Fureka, Division of Medical Quality

Lindy F. Kumagai, M.D., Sacramento, Division of Licensing

Roslyn Lindheim, Berkeley, Division of Medical Quality

Medical Quality Review Committees:

Richard H. Alley, Jr., M.D., Yreka, District I

Rebecca M. White Argo, M.D., Camarillo, District X

Norbert Goldfield, M.D., Whittier, District XI

Allan K. Jonas, Los Angeles, District XI

William D. Pratt, M.D., Carmichael, District II

Robert H. Reid, M.D., San Jose, District VII

Richard M. Sullivan, M.D., San Diego, District XIV

Lester Winkler, M.D., Tarzana, District XI

DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF MEDICAL QUALITY ASSURANCE
1430 HOWE AVENUE
SACRAMENTO, CA 95825

Applications & Examinations (916) 920-6411
Continuing Education (916) 920-6353
Disciplinary Information (916) 920-6363
Fictitious Names (916) 920-6353
Verifications of Licenses (916) 920-6343
Allied Health Professions:
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Physical Therapy (916) 920-6373
Physician's Assistant (916) 924-2626
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Psychology (916) 920-6383
Registered Dispensing Opticians (916) 924-2612

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