



# ACTION REPORT

State of California - Department of Consumer Affairs

No. 38 - November 1989

## Numerous 1989 Law Changes Will Affect Physicians

The 1989 session of the Legislature produced a number of changes in the law which will directly or indirectly affect physicians.

**BUDGET BILL.** Following release by the Board of a report to the Legislature describing a persistent large backlog of investigations, the Legislature proposed and the Governor approved increasing the Board staff. As of July 1, 1989, the Board has authority to hire eighteen additional investigators, two physician consultants and eight other support staff. Ten of these positions are temporary for two years.

The Medical Board itself sponsored five bills, all of which were signed by Governor Deukmejian.

**NAME CHANGE.** On January 1, 1990, the BMQA will become the MBC. Assembly Bill (AB) 184, authored by Assemblywoman Jackie Speier, changes the Board's name to **Medical Board of California**. This was recommended by the Board after complaints that it was hard to locate in phone directories, and the name confused some people. The new name will be phased in on licenses and other documents as they are reprinted.

**FEE WAIVER FOR DISABLED PHYSICIANS.** Assemblyman William Filante, M.D. authored AB 2118, which will allow disabled physicians and podiatrists to request a waiver of license renewal fees. The doctor will have to submit documentation of the disability, and to notify the Board if he or she recovers.

**MEDICAL SCHOOL FACULTY.** Dr. Filante also authored AB 2119, which combines two sections governing the practice of medicine by physicians from outside California, who have medical school faculty appointments in California.

**CLINICAL TRAINING REQUIREMENTS.** Assemblyman Curtis Tucker, Jr., who recently was elected to fill his late father's seat in the Assembly, carried AB 2219 for the Board. This bill makes several clarifying changes relating to clinical training, examinations administered in other states, and to the distinction between medical practice and training of physicians.

**"WHISTLE-BLOWERS".** Senator Barry Keene authored SB 1480, which provides additional protection and confidentiality to persons who report unprofessional conduct of health practitioners to their Boards.

Among legislation which was sponsored by other organizations or individuals, the following bills became law:

**HOSPITAL DISCIPLINARY REPORTS TO THE BOARD.** Under AB 2122, Section 805 of the Business and Professions Code is amended to include "...termination of staff privileges, *membership or employment*..." in the grounds for filing a report with the Board. The section also was amended to require the chief executive officer or administrator, as well as the chief of staff, to file reports.

**PEER REVIEW.** In 1986, the Congress passed Public Law 99-660. Among other things, it sets standards for the conduct of peer review in health facilities. States were given the option to "opt-out" of the federal peer review requirements if they preferred to impose state requirements. At the request of the California Medical Association, Senator Barry Keene carried SB 1211, which opts California out of the federal system, and retains the existing system of statutory and case law which has evolved in this state over the years.

**PRACTICE DURING DISASTERS.** AB 402 (Assemblywoman Lucille Roybal-Allard)

permits physicians licensed outside of California to provide health care without a California license during a disaster or state of emergency.

**EXAMINATION SUBVERSION.** Assemblyman Chrls Chandler is the author of AB 1729, which makes it a misdemeanor to subvert a licensing examination.

**PHYSICIAN AND PODIATRIST LICENSE FEES.** The fee "ceiling" the Board can charge for licensure of a physician, or renewal of a license is raised from \$325 to \$400 under SB 1330, authored by Senator Robert Presley. The same bill raises the fee ceilings for a podiatrist from \$525 to \$800. For the Medical Board, the most significant cost increase is the enforcement staff augmentation described above.

Although the fee ceilings were increased, the actual fees will be set at somewhat lower levels. Effective in February 1990, the renewal fee for physician and surgeon licenses will be \$360.

**P.A. SIGNATURE ON DEATH CERTIFICATES.** Assembly Bill 1912 by Assemblyman Norman Waters, allows physician assistants to sign death certificates under specified circumstances, and to report suspicious deaths to coroners.

*Copies of the above bills may be obtained by writing or calling the Capitol Bill Room, State Capitol Room B-32, Sacramento, CA 95814, (916) 445-2323. There is no charge for single copies of bills.*

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# "Thou Shalt Not Have Sex With Thy Patient!"

a commentary on principles of medical ethics

by *Jacquelin Trestrail, M.D., President, Division of Allied Health Professions*

Every few years, the AMA revises its "Principles of Medical Ethics". One principle seems to be gaining in importance with time even though it is not explicitly stated in the AMA statement. In simple terms, there is no time, there is no place, there is no circumstance when it is appropriate for any

physician to have sexual contact with a patient.

The American Psychiatric Association (APA) incorporates the AMA principles into its own standards with annotations for psychiatrists. APA has annotated the second AMA principle as follows:

The requirement that the physician conduct himself with propriety in his/her profession and in all the actions of his/her life is especially important in the case of the psychiatrist because the patient tends to model his/her behavior after that of his/her therapist by identification. Further, the necessary intensity of the therapeutic relationship may tend to activate sexual and

other needs and fantasies on the part of both patient and therapist, while weakening the objectivity necessary for control. **Sexual activity with a patient is unethical.**

There is no room in ethical professional behavior for rationalization about what constitutes sexual activity. Sexual advances or activity are to be avoided in any patient contact, whether examination, surgery or other treatment. An individual who is unable to control his or her own impulses has the ethical obligation to assure that the opportunity never presents.

A simple barrier to inappropriate acts is using a third person in the room during examinations. More importantly, the physician is

obliged to recognize his or her own need for professional help. Misdirected sexual impulses toward patients rarely reflect normal human attraction. Far more often, they are a symptom of underlying pathology.

In the rare case where a physician and a patient experience real, mutual, non-exploitative attraction, the appropriate response is immediate termination of the professional relationship, with an appropriate referral to another physician. Sexuality must never come into play until the professional tie is severed. In some states, notably Minnesota, it is illegal for a mental health professional to have an intimate relationship with a patient for as long as five years following termination.

When confronted with a seductive patient, the physician has the high ground, and must assume responsibility for assuring the situation remains in control. Here again, the appropriate response may be to refer the patient to another physician, preferably one whose gender is not the object of the patient's seductive behavior.

**In every case, the best rule to follow is "When in doubt, don't!"**

*Jacquelin Trestrail, M.D. is a radiologist practicing in San Diego. She recently completed a term as President of the San Diego Medical Society, and has been a member of the BMQA Division of Allied Health Professions since March 1987.*

## The Danger of Drug Side Effects in Patients with Multiple Diseases

*Robert F. Maronde, M.D. and Gregory A. Thompson, Pharm.D.*

**Patients with multiple diagnoses - comorbid diseases** - may be susceptible to unanticipated side effects of treatment, which at times may lead to death or serious deterioration of their condition.

Often an alternative drug choice, while generally considered less effective, may be the best option for a particular patient because of such comorbid conditions. It is especially important to exercise careful clinical judgement in circumstances of this type.

One example of such an effect may accompany prescribing beta adrenergic blocking agents for hypertension, coronary artery disease or cardiac arrhythmia. These agents may intensify associated congestive heart failure, decrease myocardial contractility and cause fluid retention in the kidney. The clinician should evaluate the risk to benefit, and consider alternatives such as antiarrhythmics or calcium entry blockers.

Similarly, morbidity studies of Medi-Cal recipients showed an increase in hospitalizations for chronic obstructive pulmonary disease in patients taking beta adrenergic blockers for hypertension or other cardiovascular conditions. Pulmonary function decreases, and already compromised lungs may experience hypoxia, recurrence of childhood asthma or other sequelae. "Non-selective" beta blockers are more like to produce these effects than "cardio-selective" drugs.

Peptic ulcer disease may recur in the presence of non-steroidal anti-inflammatory drugs used for unrelated musculo-skeletal conditions. These drugs also may exacerbate renal failure, particularly if abdominal ascites are present.

Diabetics may develop hyperkalemia if they are prescribed calcium-sparing diuretics. Lowered aldosterone secretion in diabetics may lead to insidious buildup of potassium to life threatening concentrations.

Finally, care should be exercised in the use of hypotensives if there is a history of transient ischemic attacks or coronary artery insufficiency. Administration of drugs with prolonged hypotensive action may worsen angitis of the renal arterioles and small arteries, and even produce ischemic renal disease superimposed on malignant nephrosclerosis. Controlled lowering of blood pressure with a rapidly reversible agent such as nitroprusside may be preferable.

While these and other unexpected outcomes are not common, it is important to be aware of comorbid conditions, and to prescribe with care. Risk must always be weighed against benefit.

*Dr. Maronde is Chief of Clinical Pharmacology, University of Southern California School of Medicine. Dr. Thompson is Director of the Drug Information Center, Los Angeles County/USC Medical Center.*

### DISCLOSURE AND BILLING: LABORATORY SERVICES PERFORMED OUTSIDE THE PHYSICIAN OFFICE

If you, as a physician, send laboratory work out of your office to be performed, and you bill the patient for the work, you have two obligations to your patient.

1. You must inform your patient, at the time the service is first billed of the name and address, and the charge made by the clinical laboratory actually providing the service. This information must be separately set forth on your bill.

2. You must inform the patient whether the laboratory charge is included in the total amount of your bill.

The penalty for conviction of failure to provide this information to your patient is a fine of up to \$10,000 or up to one year in county jail or both.

If you have an ownership interest in the laboratory, there may be other disclosure requirements.

For the actual language of this requirement, and certain exclusions for health care service plans, see Business and Professions Code, Section 655.5. Copies are available from the Board on request.

# ELDER ABUSE: THE OTHER HIDDEN SHAME

Freddi I. Segal-Gidan, PA

*In 1986, the Legislature passed Chapter 267 which requires physicians and other caregivers to report suspected cases of elder abuse (see article in ACTION REPORT #35, August 1988). This new law also directed the Board to periodically disseminate information to physicians and hospitals on the detection of elder abuse.*

Elder abuse and neglect remain a hidden and often ignored problem. While physicians played a prominent role in the movement to recognize and intervene in child abuse, they have been less aggressive in the development of programs and policies in response to elder abuse. Current law now requires physicians and other health professionals to be alert for and actively intervene in cases of suspected elder abuse.

The U.S. Congress, through its House/Senate Committee on Aging, estimated in 1985 that 4% of the elderly population fall victim to some form of abuse. This includes physical and mental, active or passive neglect, and various forms of exploitation. This translates to one in every twenty-five older Americans, or over one hundred thousand cases each year.

Because many abuse victims are home-bound, abuse is difficult to detect. This is exacerbated because the victims often are afraid or ashamed to report the problem.

## PHYSICIANS ARE THE FIRST LINE OF DEFENSE

The majority of seniors have some contact with the health care system, usually through physician encounters. Estimates are that seniors make up 20% of family/general practice patients, 40% of internal medicine, and as much as 50% of some specialties such as neurology and psychiatry.

Health care providers in every practice setting are in position to identify suspected abuse. However, in order to do so they must be able to recognize potential risk factors.

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*There are predictive characteristics and behavior patterns which have been identified.*

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Most elder abuse is not random. Like other forms of family violence including child or spouse abuse, there is generally a continuing pattern.

Neither social, economic, cultural, nor age groups are reliable indicators of potential for abuse. However, there are predictive characteristics of victims and behavior patterns of abusers which have been identified. These in-

clude:

- o Dependency, with at least one major debilitating physical or mental condition, particularly dementia.
- o Female victim, particularly Caucasian women.
- o Alcohol or other drug abuse by the victim or another in the household.

The living situation, whether alone, with spouse, or with others, does not seem to be a significant factor in abuse.

While certain attributes of the victim seem to increase susceptibility, characteristics of the primary caregiver are considered more predictive of potential abuse. The associative characteristics of abusers include:

- o A relative or significant caregiver, frequently the spouse.
- o The abuser is dependent on the victim in some way for assistance, perhaps with finances, housing, transportation, etc.
- o The abuser has a history of alcohol or other drug abuse.
- o Inexperience as a caregiver.
- o A history of emotional or mental illness or of being abused, whether actual or perceived.
- o Severe external stress such as loss of job, illness, family problems.

The first step in decreasing the incidence of elder abuse is early identification. Health care providers first must be aware of the possibility of abuse of their patients. They should incorporate questions into the patient assessment which help to identify those at risk for abuse or neglect. The assessment should include both the patient and the caregiver or other companions.

Once potential abuse victims are identified, health care providers must be willing to:

- o Notify appropriate public agencies.
- o Seek and utilize the assistance of other health care providers with expertise, including home health agencies, mental health professionals and community agencies.
- o Assume an active ongoing role in the protection and care of vulnerable seniors.

*[Ms. Segal-Gidan is a physician's assistant and clinical instructor in the primary care physician assistant program of the school of medicine at University of Southern California. She works primarily with older patients and their families, and has extensive experience with abuse and neglect of elders.]*

## License and Renewal Fees Increased July 1

The fees for a new physician license, or to renew an existing license increased from \$255 to \$290 on July 1, 1989. Since the Board is supported entirely from license fees, periodic adjustments are needed to cover increasing costs of processing applications and disciplining physicians who violate the Medical Practice Act.

### COMPUTER ERROR CAUSED PROBLEMS

Renewal licenses now are issued by a new, centralized computer system in the Department of Consumer Affairs. Shortly after the fee changes took effect in July, the system "goofed". First, it sent out hundreds of renewal notices with the "old" fee. Then, when it notified those physicians they had to pay an additional \$35, it tacked on a late renewal fee.

We have fixed this problem. It will not recur. Affected physicians should be assured that this "underpayment" will not affect their license status. Our License Verification Unit is reporting all such licenses as "current". If you are one of those who got caught up in this dilemma, please accept the Board's most sincere apologies.

Should any other physician get a renewal notice with a fee of \$255, please call the Board at (916) 920-6943 before mailing in your check.

## New Instructions Available for Completing Death Certificates

The Department of Health Services has revised its instructions for completing Certificates of Death. If you are following an older version, dated prior to April 1989, you should contact the Department for the latest forms and requirements. Failure to fill out the certificate properly can result in delays in disposing of remains, and additional expenses for survivors.

To receive the updated information, please contact:

Office of the State Registrar of Vital Statistics  
Department of Health Services  
410 N Street  
Sacramento, CA 95814  
(916) 445-2684

# DISCIPLINARY ACTIONS

April 1, 1989 to July 31, 1989

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## PHYSICIAN AND SURGEON DISCIPLINARY ACTIONS

**BABBIN, George W., M.D. (G-034795) - Sacramento, CA**  
725, 2239, 2241, 2238, 2236 B&P Code  
Conviction of involuntary manslaughter. Wife died from drug overdose during cocaine session with physician husband, a self user. Numerous violations of laws regulating prescriptions and narcotics.  
Default.  
Revoked.  
May 8, 1989

**BITTER, Patrick H., M.D. (A-021910) - Los Gatos, CA**  
2234, 2264 B&P Code  
Stipulated Decision. Aided and abetted his son (not the son who is a physician) in the unlicensed practice of providing diagnostic medical screening procedures to the general public.  
Revoked, stayed, 3 years probation on terms and conditions.  
June 21, 1989

**COFFIELD, Kenneth J., M.D. (G-008267) - Vallejo, CA**  
Persistently ignored the requirements of his probation as a form of civil disobedience in protest of prior disciplinary decision.  
Revoked.  
June 5, 1989

**CHACON, Leonardo Reyes, M.D. (A-032705) - Rancho Palos Verdes, CA**  
490, 725, 2234(e), 2236 B&P Code  
Conviction for filing false claims with insurance carrier.  
Revoked, stayed, 7 years probation on terms and conditions, including 60 days suspension.  
December 14, 1988 (Judicial Review Completed)

**COURAH, Mohammad S., M.D. (A-028781) - Los Angeles, CA**  
725, 2234(b),(c) B&P Code  
Stipulated Decision. Gross negligence, repeated negligent acts and excessive prescribing of a regimen of drugs to weight control patients over long periods of time without adequate monitoring.  
Revoked, stayed, 5 years probation on terms and conditions.  
April 24, 1989

**CYR, James O., M.D. (G-041898) - Palm Springs, CA**  
2305 B&P Code  
Disciplinary action by Florida Medical Board.  
Revoked, stayed, 5 years probation on terms and conditions.  
April 20, 1989

**DAVE, Indravadan A., M.D. (C-041876) - La Verne, CA**  
2305 B&P Code  
Disciplinary action by Georgia Medical Board.  
Revoked, stayed, 5 years probation on terms and conditions.  
June 15, 1989

**DiBELLA, Geoffrey A., M.D. (G-021681) - New York, NY**  
2236, 2237 B&P Code  
Stipulated Decision. Federal conviction for illegal distribution of large amounts of Quaalude, in connection with his work in a "sleep clinic" in New York City.  
Revoked, stayed, 10 years probation on terms and conditions, including 60 days suspension.  
May 5, 1989

**GHALI, Nabil, M.D. (A-025206) - Miami, FL**  
2305 B&P Code  
Kentucky license revoked by Kentucky for criminal conviction. Utah license revoked by Utah for making false statements in license renewal application.  
Revoked.  
June 27, 1988 (Judicial Review Completed)

**HOELLWARTH, Robert W., M.D. (C-013059) - Vallejo, CA**  
2234 B&P Code  
Stipulated Decision. Unprofessional conduct with a nurse, unrelated to patient care.  
Revoked, stayed, 5 years probation on terms and conditions including 45 days suspension.  
May 1, 1989

**HUGHES, Donald D., M.D. (C-039856) - Thousand Oaks, CA**  
2236 B&P Code  
Stipulated Decision. Conviction for failure to report a reasonable suspicion of child abuse.  
Reprimand.  
June 5, 1989

**INFANTE, Richard Stephen, M.D. (G-046107) - Los Angeles, CA**  
2242, 2236, 2237, 2238 B&P Code

Stipulated Decision. Prescribed controlled drugs without good faith prior examination and medical indication, resulting in conviction for prescribing to persons not under his treatment for a pathology.  
Revoked, stayed, 5 years probation under terms and conditions, including 90 days suspension.  
April 24, 1989

**JOHNSON, Sidney, M.D. (C-029891) - Oxnard, CA**  
2234(e), 2236 B&P Code  
Stipulated Decision. Conviction for income tax fraud, which is a form of dishonesty.  
Revoked, stayed, 5 years probation on terms and conditions.  
April 26, 1989

**JONES, James W., M.D. (A-029077) - San Jose, CA**  
2234 B&P Code  
Stipulated Decision. Unprofessional conduct related to prescribing practices.  
Revoked, stayed, 5 years probation on terms and conditions.  
July 10, 1989

**KORLJAN, Ralph G., M.D. (A-028301) - San Pedro, CA**  
2236, 2261, 2262 B&P Code  
Stipulated Decision. Federal conviction for making false claims for medical services against the United States Workmens Compensation Fund.  
Revoked, stayed, 5 years probation on terms and conditions, including 60 days suspension.  
May 5, 1989

**KRONMAN, Barry S., M.D. (G-021371) - Melbourne, FL**  
2305 B&P Code  
Stipulated Decision. Reprimand decision by Florida Medical Board.  
Reprimand.  
April 26, 1989

**LIBRES, Joseph J., M.D. (A-024067) - Carson, CA**  
2234(b),(d), 2242, 725, 490, 2237 B&P Code  
While employed at a lay-owned clinic, he wrote about 1,000 triplicate prescriptions for Schedule II controlled drugs. Excessive prescribing without prior examination and medical indication; gross negligence; incompetence; conviction.  
Revoked, stayed, 7 years probation on terms



Copies of complete disciplinary Decisions and Accusations (Statements of Charges) may be ordered by writing to:  
BMQA Enforcement  
1430 Howe Avenue  
Sacramento, CA 95825

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

and conditions, including 90 days suspension.  
May 22, 1989

**LOEB, Phillip M., M.D. (G-009700) - San Francisco, CA**

725, 2234(c), 810, 2261, 2262 B&P Code  
Stipulated Decision. False insurance billings and operative reports, repeated acts of negligence, excessive treatment or procedures at a San Francisco Anucare Clinic (hemorrhoid and anorectal surgery) controlled by another MD under accusation.

Revoked, stayed, 5 years probation on terms and conditions.  
April 24, 1989

**MILLAR, Glenn C., M.D. (G-003482) - San Luis Obispo, CA**

2234 B&P Code  
Stipulated Decision. Failure to inform patient she had sustained a bladder injury during surgery constitutes unprofessional conduct.

Revoked, stayed, 5 years probation on terms and conditions.  
April 24, 1989

**MONTENEGRO, Jose, M.D. (C-035541) - Carlsbad, CA**

822, 825 B&P Code  
Mental illness, under treatment.

Revoked, stayed, 5 years probation on terms and conditions.  
April 6, 1989

**O'BRIEN, Charles, M.D. (G-010043) - Arroyo Grande, CA**

2234(d) B&P Code  
Surgical incompetence in failure to remove ends of small bowel by ileostomy or other appropriate procedure in presence of infection in abdominal cavity.

Revoked, stayed, 5 years probation on terms and conditions.  
November 15, 1984 (Judicial Review Recently Completed)

**PETTY, Preston D., M.D. (C-034876) - Big Springs, TX**

2305 B&P Code  
Stipulated Decision. Discipline by Texas Medical Board.

Reprimand.  
May 8, 1989

**PITTMAN, Jerome S., M.D. (G-047112) - Los Angeles, CA**

2237 B&P Code  
Stipulated Decision. Federal conviction for distributing Talwin without a legitimate medical purpose.

Revoked, stayed, 5 years probation on terms and conditions, including 60 days suspension.  
July 7, 1989

**SHARMA, Kanu D., M.D. (A-040854) - Hermosa Beach, CA**

725, 490, 2234(a),(e), 2261, 2262, 2238, 2236, 2242 B&P Code

Federal conviction for altering and falsifying medical records related to grand jury investigation of his prescribing practices. Falsely certified medical disabilities. Prescribed without medical indication and in excessive amounts.

Revoked.  
July 7, 1989

**THURTLER, Robert J., M.D. (C-023747) - Richmond, CA**

2238, 2239 B&P Code  
Repeatedly failed to comply with probationary terms and conditions. Self-use of controlled substances.

Prior disciplines.

Revoked.  
July 15, 1989

**WELLOCK, Clyde E., M.D. (A-020355) - Healdsburg, CA**

2234(b) B&P Code  
Stipulated Decision. Obstructed the common bile duct with a surgical clip during a cholecystectomy surgery. Gross negligence.

Revoked, stayed, 3 years probation on terms and conditions.  
May 15, 1989

**WILLIAMS, Aubrey, M.D. (A-029106) - Parkville, MO**

2305 B&P Code  
Discipline by Missouri Medical Board.

No appearance at California hearing.

Revoked.  
June 26, 1989

**YAU, Pak Chenk, M.D. (A-034997) - Hayward, CA**

Petition to revoke probation was settled by stipulated order adding a monitoring condition to a prior probationary order.  
April 5, 1989

**ZAGUIRRE, Jose, M.D. (A-019532) - La Habra, CA**

2234, 2236 B&P Code  
Engaged in lewd conduct with an 11-year-old girl, resulting in a felony conviction and state prison.

Revoked.  
August 18, 1988 (Judicial Review Completed)

## ACUPUNCTURIST DISCIPLINE

**FRANCIS, Alan Howard (CL-550) - Panorama City, CA**

726, 4955(g) B&P Code  
Sexual misconduct with patients.

Revoked.  
July 10, 1989

## PODIATRIST DISCIPLINE

**DIANA, James L., D.P.M. (E-2212) - Torrance, CA**

2236 B&P Code  
Criminal convictions on three separate occasions. Violated probation of prior discipline.

Revoked. Default.  
July 27, 1989

## PSYCHOLOGIST DISCIPLINE

**DODGE, Richard L., Ph.D. (PS-5014) - Colton, CA**

726, 2960(j),(n) B&P Code  
Sexual relations with patient.

Revoked.  
April 10, 1989

**FORCE, Elizabeth, Ph.D. (PE-4065) - Fresno, CA**

2960(j),(n) B&P Code  
Stipulated Decision.

Sexual relations with patient.  
Revoked, stayed, 6 years probation on terms and conditions, including 90 days suspension.  
July 3, 1989

**GOTTUSO, John Baptiste, Ph.D. (PB-4359) - Arcadia, CA**

2960(n),(j) B&P Code  
Sexual relations with patients.

Revoked.  
May 22, 1989

**LETNER, Rodney, Ph.D. (PL-5430) - Chico, CA**

2960(j) B&P Code  
Sexual relations with patient.  
Revoked, stayed, 6 years probation on terms and conditions, including 9 months suspension.  
April 10, 1989

**SHAFER, Jerry, Ph.D. (PL-3395) - Walnut Creek, CA**

2960(a),(n) B&P Code  
Stipulated Decision. Conviction for Medi-Cal fraud.

Revoked, stayed, 5 years probation on terms and conditions.  
July 27, 1989

## DISCIPLINARY ACTIONS

*Continued from Page 5*

**WITTENBERG, Paul, Ph.D. (PL-5726) - Torrance, CA**  
2960, 2963 B&P Code  
Stipulated Decision. Conviction for Medi-Cal fraud.  
Revoked, stayed, 5 years probation on terms and conditions, including 14 days suspension.  
May 8, 1989

## PHYSICIAN ASSISTANT DISCIPLINE

**KINDEL, Steven A., P.A. (PA-10841) - Palm Springs, CA**  
2234(e), 3527 B&P Code  
Stipulated Decision. Signed false "Certificate to Return to Work."  
Revoked, stayed, 2 years probation on terms and conditions.  
July 24, 1989

## RESPIRATORY CARE PRACTITIONER DISCIPLINE

**BLEDSON, Gregory E., R.C.P. (PZ-9203) - Atwater, CA**  
490, 2238, 3750(a),(d) B&P Code  
Conviction for filing fraudulent claim of loss with his insurance company. Wrote false prescriptions for codeine for self-use. Also, made false statements in his application for license.  
Revoked. Default.  
May 18, 1989

**FREEMAN, Cynthia Frances, R.C.P. (PK-2230) - Sepulveda, CA**  
490, 3750 B&P Code  
Stipulated Decision. Made false statements in license application concealing two prior misdemeanor convictions.  
Revoked, stayed, 2 years probation on terms and conditions.  
July 24, 1989

**MAYTORENA, Frank Thomas, R.C.P. (PH-7854) - Corona, CA**  
490, 3750(l) B&P Code  
Fraudulently procured license by filing false application concealing prior criminal convictions. Also, sexually molested a number of children.  
Revoked. Default.  
May 19, 1989

**MOLINA, Stephanie H., R.C.P. (RC-0132) - Rowland Heights, CA**  
822, 3750(j) B&P Code  
Mental illness.  
Revoked. Default.  
June 5, 1989

**PORTER, Thomas J., R.C.P. (PZ-8876) - Modesto, CA**  
3750(d),(j) B&P Code  
Convictions for theft.  
Revoked. Default.  
July 10, 1989

**WILLIAMS, Terry Lynn, R.C.P. (RP-3950) - Palo Alto, CA**  
3750(d), 3752.5 B&P Code  
Stipulated Decision. Conviction for battery with serious bodily injury.  
Revoked, stayed, 2 years probation on terms and conditions.  
April 26, 1989

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## VOLUNTARY SURRENDER OF LICENSE ACCEPTED WHILE CASE PENDING

## PHYSICIAN AND SURGEON

**AZELEY, Percival L., M.D. (A-026780) - San Diego, CA**  
June 5, 1989

**DWYER, Edward J., M.D. (C-037662) - Austin, TX**  
June 28, 1989

**JACOBS, Lawrence F., M.D. (C-019856) - Cloverdale, CA**  
July 11, 1989

**MINAYA, Jose, M.D. (A-024141) - Los Angeles, CA**  
May 10, 1989

**SCEATS, Donald J., M.D. (C-017014) - Pueblo, CO**  
July 26, 1989

**THOMAS, Claude Ray, M.D. (A-020204) - Roswell, GA**  
May 19, 1989

## PSYCHOLOGIST

**GROVES, Frank F., Ph.D. (PSY-3263) - Castro Valley, CA**  
April 14, 1989

## APPLICANT CASES

Decisions affecting applicants for license following requests for Statement of Issues and Administrative Hearings.

## PHYSICIAN AND SURGEON

**OPRAN, George - Huntington Beach, CA**  
2102(c), 2096 B&P Code  
Failed to show satisfactory completion of one year postgraduate training in approved hospital in the U.S. or Canada.  
License denied.  
May 4, 1989.

**SHEA, Dianne K. - Syracuse, NY**  
2080, 2102(a) B&P Code  
Stipulated Decision. Ineligible for licensure for failure to meet statutory requirements.  
License Denied.  
July 10, 1989

## RESPIRATORY CARE PRACTITIONER

**SPARKER, Richard C. - El Cajon, CA**  
3750(j), 3750.5(a) B&P Code  
Stipulated Decision. Self-use of Demerol.  
License granted, 5 years probation on terms and conditions.  
June 9, 1989

## ACUPUNCTURIST

**SEKITO, June - San Diego, CA**  
480, 4955 B&P Code  
Stipulated Decision. Conviction for practicing acupuncture before license is obtained. Also, dishonest billing to insurance company by her chiropractic practice.  
Barred from taking the Acupuncture exam until after 2/1/90.  
June 5, 1989

## PHYSICIAN ASSISTANT

**VARTANIAN, John J. - Downey, CA**  
480(a)(1), (a)(3), 3531 B&P Code  
Prior misdemeanor convictions.  
License granted subject to two years probation on terms and conditions.  
May 17, 1989

## "Buccaneer Ophthalmologists" - the new Pirates of Pince-Nez

by Barbara Mitchell, M.D., Medical Consultant, BMQA San Bernardino Regional Office

The patient is 89. Wheel-chair bound, she, no longer reads or does needlework. The offer of free vision screening doesn't seem to make much difference. Then the doctor who did the screening tells her that she has glaucoma and cataracts. Immediate surgery is needed to prevent blindness. The patient becomes so alarmed she develops cardiac arrhythmia.

When she recovers, her daughter takes her to the family ophthalmologist who finds no sign of glaucoma, minor nuclear sclerotic lens opacity, uncorrected vision of 20/30. No surgery is indicated.

This patient is just one of hundreds of nursing home patients who are being victimized. So-called "buccaneer ophthalmologists" screen dozens of patients in one visit, and recommend surgery for many whose vision is adequate for their needs. Unlike the vast majority of physicians, these practitioners allow the prospect of quick cash to cloud their ethical vision.

### PIRACY ON THE HIGH SEES

Cataract surgery has joined hysterectomy and gall bladder surgery on the federal Department of Health and Human Services' list of procedures which are subject to abuse and overcharging. A few years ago Congress attempted to thwart the unnecessary performance of cataract surgery by denying payment for an assistant surgeon and by limiting reimbursement. A small but highly visible group of ophthalmologists reacted by commercializing their practices.

I have seen ads claiming a patient can get her nails done and her cataracts removed at 9 am, and still make her lunch appointment at a local cafe. This suggests to the patient that the surgery is so simple it will not have any effect on her lifestyle except to improve it.

Other physicians have solicited optometrists to provide followup care to postcataract patients in return for a portion of the surgical fee. This constitutes fee-splitting, which is prohibited by law. In some instances, the brochures sent to optometrists propose illegal schemes where the optometrist "steers" patients to the physician, and in return receives the lucrative followup care.

The Reader's Digest recently carried an article by Donald Robinson: "Cataract Surgery, Remedy or Racket?" I think every non-ophthalmologist should read it. Robinson describes a host of familiar come-ons: jitney rides to and from the doctor's office, free eye OPTHALMOLOGISTS, *Continued* examinations (which then are illegally billed to

*Continued, Page 8*

# Alzheimer's, Other Dementias Now Reportable to Health Departments

Harold N. Mozar, M.D. and James T. Howard, M.S., Alzheimer's Disease Program, California Department of Health Services

California physicians now are required to report Alzheimer's disease (AD) and other related disorders to their county or city health departments. Reports are made on Confidential Morbidity Report cards, as are lapses of consciousness including epileptic seizures. This requirement is contained in Section 410, Health and Safety Code, and in Sections 2500 and 2572, Title 17, California Code of Regulations.

## DISORDERS RELATED TO ALZHEIMER'S DISEASE<sup>1</sup>

Multi-infarct dementia?  
Pick's disease  
Creutzfeldt-Jakob disease  
Dementia - chronic alcoholism  
Dementia - Parkinson's disease  
Dementia - Huntington's disease  
Dementia - late syphilis  
Dementia - AIDS  
Dementia pugilistica

<sup>1</sup>These are related to AD only in the sense of being irreversible and progressively degenerative.

<sup>2</sup>Most common of AD-related disorders.

In addition to the specific disorders in the above list, any chronic confusional state unresponsive to treatment should be reported.

The local health department will forward the reports through the Department of Health Services to the Department of Motor Vehicles. As with other reportable disorders, the DMV is responsible for evaluating each patient to determine whether he or she can continue driving. Suspension of the driving privilege is not automatic.

Failure to report a diagnosed or suspected case of AD or other reportable condition may lead to physician liability if the patient is involved in a motor vehicle accident. In addition, failure to report may be grounds for disciplinary action against the physician's license.

AD-type disorders affect information processing, language, motor functions, vision, reaction time, space perception and memory. Drugs required for the relief of symptoms may exacerbate the cognitive and motor impairments. Even in patients with early stage conditions, the episodic deficits in attention, memory, and judgement may be sufficient to place the patient at risk at least occasionally.

Studies of such patients demonstrate a pattern of increased occurrence of vehicle accidents, often involving lane changes or negotiating intersections with traffic signals.

Added to the likelihood of getting lost or forgetting where they are going or how to get home, the complex demands of driving may present a serious hazard to such patients.

*Family members or caregivers may be grateful to have the driving responsibility shifted away from the patient.*

Although many AD patients regard losing the driving privilege as a terrible loss of freedom, others may express relief. In some cases, family members or caregivers may be grateful to have the responsibility for driving shifted away from the patient. Regardless, the attending physician is required by both law and medical ethics to report conditions which represent a danger to either the patient or other drivers.

For additional information, please contact the Alzheimer's Disease Program, Adult Health Section, Department of Health Services, P. O. Box 942732, Sacramento, CA 95814. (916) 327-4660.

## California Conservation Corps Issues Insurance Warning

The California Conservation Corps (CCC) recently reported problems with former corps members who are telling physicians they are still covered by the CCC health insurance plan. If you have patients who claim CCC insurance coverage, you may wish to confirm that coverage in advance.

Former corps members are permitted to continue their coverage by paying premiums themselves. Enrollment can be checked by contacting Metropolitan Life, (415) 546-3222 between 8 am and 5 pm daily.

## OPHTHALMOLOGISTS

*Continued from Page 7*

Medicare), and nursing home "sweeps". He coined the term "Buccaneer Ophthalmologist" to describe "high volume eye surgeons who are more interested in the money they make than in their patients' wellbeing."

Some entrepreneurs send mass mailings to their communities. You can be lured from the comfort of your own easy-chair by an offer of free eye examinations, only to find yourself in the doctor's operating room.

### THE CASES BMQA GETS

As a BMQA medical consultant, I have seen a number of cases involving ophthalmologists. While some have involved unadorned incompetence, most of these complaints have reflected ordinary greed. Often, simple steps taken by an attending physician can prevent the worst abuses. For example, charts of nursing home patients should have basic information on vision.

If you suddenly learn your patient is scheduled for cataract surgery, check the visual acuity yourself. Then discuss your findings with the ophthalmologist. This is particularly important if the patient is confused, bed-bound, extremely old, or for any other reason does not seem to be an appropriate candidate for cataract surgery.

Another safeguard might be to require a photo of the posterior membrane before approving a laser capsulotomy. Recently I reviewed a complaint case where the

physician's chart indicated the patient was aphakic. One eye had a posterior chamber lens with a large post-laser capsulotomy central opening. The other eye had an intracapsular cataract extraction with an anterior chamber lens. The following year, this patient underwent bilateral laser capsulotomies because of "bilateral opacified capsules". This case was referred to the Board by the Medicare carrier.

In another case, a patient cancelled a second cataract surgery because of persistent pain in the first eye. When his regular physician evaluated his condition, he found the vision in the unoperated eye to be 20/20, UN-CORRECTED! The attending physician reported the complaint to us.

One optometrist reported a "buccaneer" to the board after several of his own patients told him the ophthalmologist had recom-

mended immediate cataract surgery to preserve their sight. The O.D. found normal visual acuities for each of the elderly patients involved.

Advances in technology should not automatically bring along advances in dishonesty. Certainly there always will be variations in treatment methods. But that is not what we are talking about here. It's the blatant unnecessary surgery, in violation of Business and Professions Code Section 725, that concerns the Board. As a surgeon giving a second opinion, it is not enough to write that the surgery is not indicated. If you have reason to believe the physician is contemplating a "remunectomy" on the patient's wallet or insurance plan, as a matter of conscience, you should contact the board.

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1430 HOWE AVENUE  
SACRAMENTO, CALIFORNIA 95825

BMQA has many phone numbers. To avoid transfers, please refer to this list before calling the Board.

### Physicians and Surgeons:

- Applications & Examinations (916) 920-6411
- Chief Medical Consultant (916) 920-6393
- Complaints - call nearest regional office:
  - Fresno (209) 445-5664
  - Sacramento (916) 920-6013
  - Santa Ana (714) 558-4452
  - San Bernardino (714) 383-4755
  - San Mateo (415) 573-3892
  - Torrance (213) 320-8530
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- Continuing Education (916) 924-2338
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### Allied Health Professions:

- Complaints: (916) 920-6341
- Licensing:
  - Acupuncture (916) 924-2642
  - Hearing Aid (916) 920-6377
  - Physical Therapy (916) 920-6373
  - Physician's Assistant (916) 924-2626
  - Podiatry (916) 920-6347
  - Psychology (916) 920-6383
  - Registered Dispensing Opticians (916) 924-2612
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