

Action Report

Medical Board of California

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Medical Board of California Meeting

2006

May 11–12
Santa Ana

July 27–28
San Francisco

November 2–3
San Diego

All meetings are open
to the public.

Promoting Access to Care

by Richard Fantozzi, M.D., F.A.C.S.
President, Division of Licensing

Over the past four to five years, the Medical Board has passionately been involved in access-to-care issues. It began with the development of the Loan Repayment Program in 2003 and an initial funding from the board of \$3 million. The student loan repayments of up to \$105,000 are awarded to recently licensed physicians who are willing to work for three years in underserved areas of the state.

Simultaneously, as the chair of the Access to Care Committee, I worked with Medical Board staff to develop a Physician Volunteer Registry program. Physicians were asked via a survey if they had an interest in volunteering, and the results demonstrated that there was in fact a significant interest from both active and non-active licensees. At that point, the board launched the online Physician Volunteer Registry in 2004. The registry is intended to be accessible by several hundred community clinics throughout the state and by other entities seeking volunteer physicians. It was apparent that both programs had the capability for growth and expansion. For the programs to grow and prosper, a custodial institution and a foundation model, a dedicated executive director, and knowledgeable staffing were necessary.

Under the umbrella of the Office of Statewide Health Planning and Development (OSHPD) is the Health Professions Education Foundation (HPEF). Because the HPEF charter is similar to what the Medical Board had developed, we pursued this vehicle. HPEF was consulted and agreed that it would be an appropriate fit to house both programs. Historically,

the HPEF was established as a nonprofit public benefit corporation to encourage and support the participation of health professions students and graduates from underserved communities and economically disadvantaged backgrounds, and to increase their professional service in medically underserved areas upon completion of their education. It administers scholarship and loan repayment programs to health professional students and graduates, and in return for this support, program recipients agree to provide direct patient care in a medically underserved area of California.

After initial funding for the Physician Loan Repayment Program from the Medical Board, additional funding was received from the California Endowment and from private donations. Similar to other board programs, the Medical Board was successful in getting legislation passed allowing physicians to donate \$50 to the fund at the time of license renewal. The Registered Nurse Education Fund is supported through a \$10 surcharge for renewal of the Registered Nurse license. The Vocational Nurse Education Fund is supported through a \$5 surcharge for renewal of the Vocational Nurse license; and the Mental Health Practitioner Education Fund is supported through a \$10 surcharge for renewal of Psychologist, Marriage and Family Therapist, and Licensed Clinical Social Worker licenses in California. These programs also are administered by HPEF.

The volunteer program now will be expanded to include nurses. We also want to be inclusive and have the opportunity to expand with the assistance of other

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THE MISSION OF THE MEDICAL BOARD OF CALIFORNIA

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

President's Report

Before exploring the topic of this article, I want to seize this opportunity to thank some of the people who made my year as President of the Medical Board of California possible and pleasurable: Dave Thornton, Executive Director; Joan Jerzak, Chief of Enforcement; Candis Cohen, Public Information Officer; and the entire staff of the board. The people of California are fortunate to be served by such a dedicated and outstanding group.

“The friends and family plan” for prescribing medication is a confusing area for most physicians. We often are inundated with, “I need a few pain pills” or “sleeping pills” or some “antibiotic” to treat what is often a viral infection. What should we do? If you must treat a member of the family or close friend, perhaps the answer comes from multiple sources. The American Medical Association’s “Code of Medical Ethics” states the following:

(Section 8:19) Self Treatment or Treatment of Immediate Family Members: “Physicians generally should not treat themselves or members of their immediate families. Professional objectivity may be compromised when an immediate family member or the physician is the patient; the physician’s personal feelings may unduly influence his or her professional medical judgment; thereby interfering with the care being delivered. Physicians may fail to probe sensitive areas when taking the medical history or may fail to perform intimate parts of the physical examination. Similarly, patients may feel uncomfortable disclosing sensitive information or undergoing an intimate examination when the physician is an immediate family member. This discomfort is particularly the case when the patient is a minor child, and sensitive or intimate care should especially be avoided for such patients. When treating themselves or immediate family members, physicians may be inclined to treat problems that are beyond their expertise or training. If tensions develop in a physician’s professional relationship with a family member, perhaps as a result of a negative medical outcome, such difficulties may be carried over into the family member’s personal relationship with the physician.”

If one looks at the practicality of the prescribing dilemma before examining California law, the reality is if one



Ronald H. Wender, M.D.
President of the Board

refrains from prescribing controlled substances, it is less likely that they will appear on the Medical Board’s radar. Moreover, if you must prescribe to friends and family, think about these issues: There are no patient records or a record of a good faith exam, which can lead to significant abuses. Friends who have unwanted reactions to therapy can become foes in a legal arena in which you have no written support for your actions. Is the physician using his or her best judgment, the correct diagnosis or is the physician relying on the patient’s self-diagnosis, often by phone? Often there is significant under

or over treatment of a problem with a high incidence of missed diagnosis. Without a good faith exam, were the appropriate tests done? What about self-prescribing? It is said that a lawyer who defends himself has a fool for a client. This certainly could be extrapolated to a physician’s self-prescribing.

Let us now take a look at California law.

First, Health and Safety Code section 11170: “No person shall prescribe, administer or furnish a controlled substance for himself.”

Business and Professions Code section 2239: “(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 record of the conviction is conclusive evidence of such unprofessional conduct.”

The exception to this rule would be in emergency circumstances.

So where are we? What is the bottom line? The law does not prohibit a physician from self-prescribing or prescribing to friends and family if the drugs are non-controlled substances; however, it is far better to have another physician who is not emotionally involved care for you, your family and friends.

Misdemeanor Self-Reporting by Physicians

by Joan Jerzak, Chief of Enforcement

Criminal violations are identified in law to separate acceptable behavior from unacceptable behavior. It is hoped that most people will not engage in behavior that will result in felony or misdemeanor charges. However, the fact that some physicians do engage in certain illegal behavior can be an indication of their inability to carry out their professional obligations and could be a threat to public safety, including their patients.

SB 231 (Figueroa, 2005), effective January 1, 2006, amended Business & Professions (B&P) Code section 802.1 and, in addition to self-reporting of all felonies, it requires physicians to report those misdemeanors which are substantially related to the qualifications, functions and duties of a physician and surgeon, as defined by the Legislature. Therefore, the Medical Board of California (board) will be developing a proposal for submission to the Legislature which identifies those misdemeanor convictions which are substantially related. After that occurs, physician reporting requirements *may change*.

It may be helpful to physicians to understand the current reporting requirements. Misdemeanor arrests and convictions are reported to the board by the Department of Justice when a licensee is arrested and fingerprinted as part of the arrest and booking process. This information is added to the individual's "criminal history" and provided to the board as an "interested" party when the fingerprints match that they are a board licensee.

In addition, court clerks are required to report criminal convictions per B&P Code sections 803.5(b) and 2236(c). B&P Code section 2236(b) also requires the district attorney, city attorney or other prosecuting agency to notify the board of the pendency of an action against a physician charged with a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. Also, misdemeanors are sometimes reported to the board by local law enforcement who become aware that a particular violator is also a licensed physician.

The question before the Legislature is, why should physicians be required to report misdemeanor convictions? One answer is that although reporting is required of certain entities, few misdemeanor arrests result in criminal processing of the defendant and the board does not always receive the reports as mandated. The board has no authority to sanction the court clerks or district/city attorneys for failing to report misdemeanor convictions or

charges and the physician is in the best position to report misdemeanor convictions, as they are obviously aware of the criminal action.

Criminal charges that are classified as "misdemeanors" can range in severity from shoplifting, solicitation of a prostitute and disturbing the peace to assault and battery, illegal possession of a controlled substance, driving under the influence of alcohol/drugs or prescribing for self-use. As stated above, the reporting from other entities is not consistently reliable or timely. Given the gravity of the charges which could be classified as misdemeanors, it is imperative that the board be aware of convictions as they occur so adequate restrictions can be imposed for appropriate public protection. Each conviction reported to the board is carefully evaluated on an individual basis, to determine if there is a need for action.

For the board to take action against a physician based on the conviction alone, it must be deemed to be "substantially related to the qualifications, functions, or duties" of a physician (B&P Code section 2236). Sections 490 and 2236(c) of the law further state that the Division may inquire into the circumstances surrounding the commission of the crime in order to "fix the degree of discipline" or to determine if the conviction is of an offense "substantially related." The board always considers the underlying issues which led to the arrest and conviction of the physician. The following example may assist in illustrating how certain misdemeanors could lead to administrative action.

A single charge of driving under the influence may not appear to be related to the duties or functions of a physician. However, if the licensee was arrested on his/her way to or from work, it could indicate an impairment problem.

The board plans to hold a public hearing on May 10, 2006 in Santa Ana to discuss the implementation of B&P Code section 802.1 and to identify for the Legislature which misdemeanor convictions a physician will be required to self-report, as substantially related to the qualifications, functions and duties of a physician and surgeon. Interested parties can participate and/or submit their comments in writing, in advance of this meeting. An agenda will be available via the board's Web site as this date approaches.

Evaluating Patients with Suspected Avian Influenza and Pandemic Influenza

by Lisa D. Benton, M.D., M.P.H.

Chief, Bioterrorism Planning and Preparedness Section
Department of Health Services

Just as during the anthrax incidents in 2001, where the astute physician was key to detecting the sentinel case, physicians will again have a frontline role in detecting and managing pandemic influenza when and if it comes to California. With the current circulating strain of avian influenza A H5N1 emerging as a contender for becoming an infectious disease outbreak of pandemic proportions almost daily, acute clinical acumen for pursuing more in-depth history of present illness, occupational, recreational, travel, and social histories in patients presenting with signs and symptoms suspicious of avian influenza is needed (www.dhs.ca.gov/ps/dcdc/VRDL.html/FLU/H5N1/Main%20Avian%20Flu%20page.htm).

In addition to determining whether a patient meets the CDC case definition of suspected avian influenza A H5N1 (recent travel to an area of the world where H5N1 is endemic; having respiratory symptoms with a fever of $>38^{\circ}\text{C}$ ($>100.4^{\circ}\text{F}$); contact with live or dead poultry either in bird markets, yard birds, household pet birds kept out of doors, and contact with an individual with known or suspected avian influenza), further inquiry should be made of persons suspected to be ill with avian influenza. Questions need to be asked about visits to foreign and domestic zoos, petting zoos at state fairs, safaris, duck hunting, cockfighting, and hobbies, cultural or religious practices that may involve live, undercooked, or uncooked bird products (e.g., blood and animal sacrifices, bird feathers in quilting or other crafts). Capturing a detailed occupational history will also be critical to rule out such activities as work-related handling of freshly slaughtered or processed raw poultry, or bird handling in a laboratory.

Taking this time to focus on a thorough and expanded history in patients with atypical respiratory presentations suspicious for avian influenza will be crucial since it is postulated that the influenza A H5N1 virus causes a cytokine storm rapidly leading to an ARDS-like clinical picture with a downward spiral of multi-system organ failure. Getting a detailed history with information about the patient's source of exposure or contact with others who are ill at your initial patient encounter may help prevent widespread disease early on, and may be your best and only opportunity to interview a patient before rapid clinical deterioration.

When evaluating a patient who triggers your elevated concern as suspicious for avian influenza A H5N1, contact your local public health department immediately.

If you are evaluating such a patient after normal business hours, weekends, or holidays, use their 24/7 emergency response number after you have taken reasonable steps to isolate the patient from others in the office or clinic. The local public health department will assist you with obtaining testing to rule out avian influenza. Also, consider an early infectious disease consult and contact your facility's infection control services if such resources are available to you.

Just as valuable as the heightened clinical index of suspicion, is the leadership role that physicians and other health care providers will play in early treatment of the first cases of influenza A H5N1, and keeping their patients informed with credible and current information to minimize the spread of influenza infection in their communities because antiviral drugs and a vaccine will be in short supply initially during a pandemic (www.pandemicflu.gov).

From studies based on motivating factors to receive regular childhood immunizations and influenza vaccination, it is shown that physicians making a recommendation for vaccination are a significant factor in the patient's decision for receiving vaccination or parents allowing vaccination of their children. As antiviral drugs and then a vaccine become available, the public will look to their providers for guidance here as well as in other areas such as social distancing, completing the course of antiviral medication, and respiratory and hand hygiene to reduce the spread of influenza infections. During a pandemic, it is especially critical for providers to reach out to populations who are at special risk for illness.

In managing and remaining current during the yearly seasonal influenza, CDHS offers physicians across California assistance using surveillance tools that will have enhanced roles during a pandemic influenza. These include the regional immunization registries, a network of sentinel physicians who report influenza like-illnesses, surveillance for severe respiratory illness or death in pediatric patients, and the assistance of immunization coordinators based throughout the local health departments. On January 18, 2006 CDHS also released for public review and comment a draft Pandemic Influenza Preparedness and Response Plan (www.dhs.ca.gov/ps/dcdc/izgroup/pandemic.htm). As work continues to actualize the priorities outlined in the plan, physician engagement is welcome and expected. To

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Have You Met the CME Requirement Mandated by AB 487?

The deadline is December 31, 2006

As reported in previous issues of the *Action Report*, and as a timely reminder to physicians, AB 487 of 2001 (Business and Professions Code section 2190.5) requires physicians to complete a mandatory continuing education course in pain management and treatment of terminally ill and dying patients. This one-time requirement of 12 credit hours is to be completed by December 31, 2006. All physicians licensed on and after January 1, 2002 must complete this requirement within four years of issuance of their initial license or by their second renewal date, whichever occurs first.

The board has published and continues to publish in the *Action Report* various courses that meet this requirement. Currently available continuing medical education courses in pain management and geriatrics also are listed on the board's Web site at: www.medbd.ca.gov/CME_Classes. This listing should not be construed as the board's endorsement of the providers of courses listed.

This section of law does not apply to physicians practicing in pathology or radiology specialty areas.

CME COURSES: FULFILLING AB 487 MANDATE

Pain Management and End-of-Life Care June 4-5, 2006 and November 16-17, 2006

Fairmont Hotel, San Francisco, CA

Sponsored by:

University of California, S.F.
School of Medicine

12 Category 1 credits

Cost: \$420 physicians

\$350 allied health professionals

Contact: Office of CME, UCSF Box 0742
San Francisco, CA 94143-0742
www.cme.ucsf.edu

Joint Conferences on Pain Management and Palliative Care

W.M. Keck Conference Center at San Diego
Hospice & Palliative Care
San Diego, California

Three conference dates to choose from:

April 8-9, 2006

Saturday: 8 a.m. - 5:30 p.m.

Sunday: 8 a.m. - 5 p.m.

September 23-24, 2006

Saturday: 8 a.m. - 5:30 p.m.

Sunday: 8 a.m. - 5 p.m.

December 8-10, 2006

Friday: 5 p.m. - 9 p.m.

Saturday: 8 a.m. - 5 p.m.

Sunday: 8 a.m. - 12 p.m.

Sponsored by:

San Diego Hospice & Palliative Care; San Diego
County Medical Society; and University of
California, San Diego School of Medicine

15 Category 1 credits

Contact: Paula Brown, San Diego Hospice
and Palliative Care at 619-278-6314
conferences@sdhospice.org
<http://conferences.cpsonline.info>

Improving Outcomes in Chronic Pain

An online interactive course

Sponsored by:

University of Arizona College of Medicine at
the Arizona Health Sciences Center

14.5 Category 1 credits (pain management only)

Available at www.vlh.com

Promoting Access to Care *(Continued from page 1)*

healthcare professionals. One of our goals is to use volunteers in an educational capacity with the aid of HIT (Health Information Technology) and telemedicine. Currently, I am working with the California Telemedicine & eHealth Center (CTEC) and the UC Davis Telemedicine Learning Center which communicates and provides training in telemedicine protocol, implementation and technique to clinics and healthcare providers throughout California. CTEC has funded and supported the development of 10 Regional Rural eHealth Networks which provide access to critically needed health services and education for rural and underserved communities throughout California. The Networks provide a variety of specialty services to over 100 remote sites, with the most common and most frequent request being for increased access to mental health services using eHealth technologies. CTEC, in conjunction with UC Davis, has helped address the growing digital divide by

providing healthcare services that otherwise would not be available to these communities.

I am enthusiastic about bringing together private industry leaders, healthcare providers, and state agencies to address issues concerning access to care. We are currently developing a pilot program utilizing the UC Davis Telemedicine Learning Center and our volunteer network to provide education to selected rural healthcare sites. The anticipated success of this pilot program will allow us to expand educational opportunities for both our volunteer network of physicians as well as rural and urban underserved areas.

If you have any questions or would like to be added to the volunteer registry, please contact Letitia Robinson at (916) 263-6668 or Lrobinson@medbd.ca.gov.

This is the first in a series of articles regarding the board's efforts in promoting access to care.

Avian and Pandemic Influenza *(Continued from page 4)*

become involved with the CDHS planning activities for pandemic influenza please call the Immunization Branch at (510) 620-3737.

Avian Influenza (AI) Clinical Trials Update

Although many vaccines against avian influenza are in the pipelines or undergoing experimental animal studies, they remain in the pre-clinical phases of the development and must undergo clinical trials before widespread human use. As of February 24, 2006, four clinical trials evaluating new vaccines against avian influenzas are underway at the National Institute of Allergy and Infectious Diseases (NIAID). Three vaccine trials are in progress to test the safety and immune response, and evaluate the immunity provided by a booster dose of avian influenza vaccine in healthy adults, and one study is for children. Based at Johns Hopkins School of Public Health in Maryland, one study is currently recruiting 70 healthy men and women age 18 and older to participate in a non-randomized, open label, dose comparison safety study of live influenza A vaccine H9N2 administered intra-nasally. The H9N2 virus subtype is one of several waterfowl avian influenza viruses from which a novel virus subtype capable of infecting humans or potentially causing a pandemic could emerge. Depending on the immune response to the first intranasal dose of vaccine, some study participants may be asked to receive an additional dose.

Healthy male and female volunteers age 18 to 65 are also being recruited to receive a booster intramuscular injection of influenza A/H5N1 in a non-randomized, open label, dose comparison safety and dose efficacy study. These participants have already received two injections of vaccine as part of a prior avian influenza trial, where varying doses of 7.5, 15, 45, or 90 micrograms of influenza vaccine were used, and are expected to

receive their third injection of that same vaccine dose at approximately five months after their 2nd injection (month six in the study). This study expects to enroll 400 participants and be completed by June 2006. The study is underway at University of Rochester, Rochester, NY, University of Maryland, Baltimore, MD, and UCLA, Torrance, CA.

A third randomized, placebo-controlled phase I/II multi-center study using inactivated influenza H5N1 virus vaccine has been designed to evaluate the safety, tolerability, and capability of inducing an immune response. This study is planned for up to 280 healthy adults who will keep a journal of adverse events and monitor their temperature, and provide three serum samples (blood draws) before and after being given two intramuscular injections of vaccine, vaccine plus adjuvant, or placebo. Studies on this vaccine are expected to be completed by November 2006.

The fourth trial is the only influenza A H5N1 vaccine clinical trial actively recruiting healthy children. This randomized, double-blinded, placebo-controlled, staged, dose-ranging, Phase I/II study is intended to evaluate the safety, tolerability, and immunogenicity of two doses of an intramuscular inactivated influenza A/H5N1 vaccine in healthy children, aged two through nine years. The study is expected to enroll 130 children and be completed by February 2007. UCLA Center for Vaccine Research, Torrance, CA, University of Baltimore, MD, and St. Louis University Health Sciences Center, St. Louis, MO are the study institutions.

New vaccine clinical trials are occurring regularly. Further information about these avian influenza vaccine studies and other clinical trials including contact information for participation can be found at www.clinicaltrials.gov.

Steven M. Thompson Physician Corps Loan Repayment Program



From left, Assembly Member Lori Saldaña (San Diego) presents an Assembly Resolution to Dr. Lorrie Strohecker, who works at the San Diego Family Care Clinics, pictured with Division of Licensing President Richard Fantozzi, M.D.

support for the loan repayment program. The Medical Board hopes that you will consider making a donation when you renew your license.

Three physicians who received loan repayments celebrate the announcement of their awards in these photos.



Dr. Marjan Banooni, left, and clinic staff, Kohar and Angela, work at St. Anthony Medical Clinic in Hollywood.

The Steven M. Thompson Physician Corps Loan Repayment Program was established in 2003 to offer student loan repayments, up to \$105,000, to recently licensed physicians willing to work for three years in underserved areas of the state.

Taking into account all money that has been committed to the loan repayment program and interest earned, over \$8 million has been raised. Cumulatively, almost \$5.9 million has been encumbered in the contracts signed with the 65 physicians in the 2003, 2004, and 2005 classes of awardees.

Assembly Bill 327 (de la Torre) was passed by the Legislature and signed into law, effective January 1, 2006. This bill authorizes the board to accept a voluntary \$50 donation, in addition to the issuance and renewal of a physician's license, to provide



Dr. Carmen Espitia and her medical assistants, Elva and Nathalie, work for San Joseph Medical Clinic in Van Nuys.

Medical Board May Issue a Citation and Fine for Failing to Provide Medical Records

Effective January 1, 2006, the Medical Board has the authority to issue a citation and fine when a physician, upon request, fails to provide the board with medical records in a timely manner. Although the board still has the authority to obtain a civil penalty under Business and Professions Code section 2225.5, this new law allows the board the option of issuing a citation and fine rather than proceeding through the lengthy and costly

process of obtaining a civil penalty. Such fines may range from \$1,000 to \$5,000 depending on the severity of the violation and whether the physician has a history of failing to provide the board with medical records. Pursuant to Business and Professions Code section 2225, a physician has 15 business days from the date of the request to provide the board with the requested records.

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The Fight Against Medi-Cal Fraud

Department of Health Services

Audits and Investigations Division/Medical Review Branch

The Medi-Cal Program provides health care for over 6 million Californians at a cost of over \$34 billion per year. Medi-Cal fraud and abuse costs California taxpayers billions of dollars each year and affects all Californians, Medi-Cal beneficiaries, taxpayers and medical providers.

The Medi-Cal Program was initiated in California on March 1, 1966, and placed under the Health and Welfare Agency for administration. The Office of Health Services, now known as the California Department of Health Services (DHS), was created to administer the program. For the fiscal year ending June 30, 1967, the Medi-Cal Program paid approximately \$60,000,000 to 70,000 providers who provided health care to the 1.5 million beneficiaries enrolled in the program. DHS was later designated by the Federal Centers for Medicare and Medicaid Services (CMS) as the single state agency responsible for administering the Medi-Cal Program.

Today, approximately 6.7 million Medi-Cal beneficiaries are enrolled in the Medi-Cal Program. Approximately 3.4 million Californians are enrolled in the fee-for-service program and receive medical care from over 80,000 health care providers who yearly submit over 200 million claims for payment. Another 3.3 million beneficiaries are enrolled in managed care health plans.

As early as 1967, fraud and abuse in the Medi-Cal Program was recognized as a serious problem. Widespread reports of kickbacks and inflated billings were being received by the California Attorney General. In February 1967, Governor Ronald Reagan appointed a task force to study the Medi-Cal Program. On February 5, 1968, the California Attorney General ordered an investigation of fraud in Medi-Cal. On

November 6, 1968, the California Department of Justice issued its report entitled, "Report on Medi-Cal Program." The report findings cited the submission of false claims, kickbacks and the provision of unnecessary medical care or services as examples of the widespread abuse. The recommendations included:

- establishment of an effective investigative agency to investigate fraud and abuse
- improve procedures to expedite suspension of fraudulent providers from Medi-Cal
- establish liaisons with professional licensing boards
- new regulations
- review claims processing procedures
- post-examination of claims

Unfortunately, California is still experiencing the same types of fraud and abuse in the Medi-Cal Program that were cited in the 1968 report. Unethical providers who submit claims for payment for services that were never rendered or perhaps were rendered unnecessarily or engage in other fraudulent practices are costing California billions of dollars.

In response, DHS has assumed an aggressive stance and adopted major tools in the fight against Medi-Cal fraud. The Audits & Investigations, Medical Review Branch (MRB), has taken the lead role in the fight against fraud and abuse. To date, these efforts have resulted in over 300 convictions of individuals who engaged in Medi-Cal fraud and over \$206 million recovered as a result of anti-fraud controls. California's success in fighting fraud

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Medical Board May Issue a Citation and Fine *(Continued from page 7)*

Should the physician fail to comply within that time frame, the board now may issue a citation and fine for such failure. The citation and fine would be posted on the physician's profile on the board's Web site, and also contain an Order of Abatement requiring the physician to comply with the request to provide the board with the medical records before the citation would be considered resolved.

Most incoming complaints require the board to review the underlying medical records to resolve the allegations. Failure to obtain these records in a timely manner creates undue stress on both the physician and the complaining party. In both the initial and final Enforcement Monitor's

reports, the author determined that the length of time it takes to obtain medical records needed improvement. In an effort to reduce the time frame, the board, in 2005, began to pursue more civil penalties. However, this process is very lengthy and costly. Therefore, legislation was proposed in the board's sunset bill which would allow the board to issue citations and fines for failing to provide medical records. The board believes that this option, which can be completed more timely than the civil process, will encourage compliance with the board's requests for medical records and lead to quicker resolution of board investigations.

Medi-Cal Fraud *(Continued from page 8)*

has been noticed by the federal government. In 2004, CMS conducted a Program Integrity Review of Medi-Cal which resulted in California's anti-fraud efforts being cited as "Benchmark Practices."

Fraudulent schemes present themselves in many shapes and forms. They may consist of billings for services that were never provided; rendering of medical services and care that were unnecessary; collusion between providers and beneficiaries or beneficiaries; experiencing utilization and medical costs that exceed the norm.

DHS has responded to the problem by implementing important anti-fraud measures that are proving to be most effective in fighting Medi-Cal fraud. The measures include many of the recommendations from the 1968 fraud report by the California Attorney General.

- **Random claims review:** The random claims review places providers on notice that all claims that are submitted for payment are subject to possible review prior to payment. In 2004, DHS began randomly selecting 100 claims weekly for review prior to payment. Claims are selected systematically. Providers are contacted and asked to submit documentation to support the claim. Any claim that cannot be supported is denied for payment. The reasons for denial for payment may include failure by the provider to respond, insufficient medical justification to support the claim, the Medi-Cal beneficiary did not receive the services, or insufficient documentation supporting the claim. As a result of the success of the random claims review, the number of claims reviewed has been increased to 200 per week.
- **Special Claims Review:** The Special Claims Review (SCR) process results when providers demonstrate a pattern of submitting claims that fail to support medical necessity or appropriateness of the services rendered. Providers are requested to submit documentation that supports the claim(s) under review. If the verification is not submitted, the claim is denied. Providers remain in SCR until an evaluation of their claims history indicates a compliance level comparable to like provider types. Providers in SCR for a period of 18 months or more may be suspended from the Medi-Cal Program.
- **Re-enrollment of providers:** The requirement that current Medi-Cal providers must re-enroll in the program has proven to be a key strategy in the anti-fraud program. Providers are notified of the necessity to re-enroll in the Medi-Cal Program and re-submit updated applications. The provider is required to submit an application for each office location and is subject to an on-site review by MRB field office staff. High-risk providers may be denied re-enrollment in the program.
- **Temporary suspension/withhold:** Medical providers under investigation for suspected fraud are subject to

temporary suspension from the Medi-Cal Program pending outcome of the investigation. The action also deactivates their Medi-Cal provider number. The temporary suspension sanction ensures that providers are not able to bill for services while under investigation for suspected fraud by a law enforcement agency or DHS. DHS may withhold payment to providers where there is evidence of fraud and abuse. Withholding of payments may occur where there is evidence of fraud and misrepresentation. DHS has the authority to temporarily suspend providers and withhold payments concurrently.

- **Medi-Cal Payment Error Study:** In 2003, the California Legislature authorized additional DHS staffing to annually conduct the Medi-Cal Payment Error Study (MPES). The objectives of the MPES are to compute the potential loss to Medi-Cal due to billing and payment errors, including the potential loss as a result of fraud and abuse, and to identify where Medi-Cal is at greatest risk for billing and payment errors. The MPES has become a major tool in assisting DHS in establishing how to best deploy the Medi-Cal anti-fraud resources. The MPES is the first study undertaken by a state or federal entity that includes an estimate of potential fraud. The study is performed by a multidisciplinary team of nurses, physicians, auditors and researchers. The team members conduct visits to provider offices to review and collect claims data and interview providers and their staff.

The findings of the MPES indicate that the vast majority of Medi-Cal providers are billing, and are being paid, appropriately. The study does identify non-institutional provider groups (physicians and pharmacies) as at a higher risk for billing errors and potential fraud. Within the physician group, billing errors included miscoding, no documentation or insufficient documentation to support the services rendered, billing for the wrong patient and prescribing, referring or delivering medically unnecessary services.

Although DHS has taken a firm stance in fighting provider fraud, it has also recognized that education of providers is an effective tool in preventing fraud. The Audits and Investigations Division, MRB, is creating a specific unit that will be staffed with medical professionals who will provide technical assistance to providers. The new unit will meet with medical providers and provide technical assistance on how to maintain compliance with anti-fraud measures.

The California Department of Health Services is resolute in its commitment to combat Medi-Cal fraud and abuse. Armed with new regulations and legislation, California is committed to stamping out Medi-Cal fraud and abuse. The word is getting out to providers that fraudulent practices can lead to arrest and criminal prosecution.



News From the U.S. Food and Drug Administration

iPLEDGE Program

FDA has developed stronger requirements to prevent fetal exposure to the drug Accutane (isotretinoin) along with its generic equivalents, such as Amnesteem, Sotret and Claravis. Isotretinoin is used to treat severe, recalcitrant, nodular acne, but it can cause serious birth defects if taken by pregnant women.

These requirements are going into effect in a new program called iPLEDGE. Under the new system isotretinoin is a restricted distribution drug and all prescribers, patients and dispensing pharmacies must be registered in the program. This means that wholesalers won't be able to distribute the drug, pharmacists won't be able to dispense it, physicians won't be able to prescribe it, and patients won't be able to receive it until they register. Patient counseling, education and informed consent will be required, and women will need to have a negative pregnancy test each month before the pharmacist can dispense the medication. Doctors, patients, and pharmacies can obtain program information and register with iPLEDGE either online or by telephone at 1-866-495-0654.

Since the initiation of iPLEDGE, FDA has begun to receive questions about the new risk management plan, including questions about physician prescribing, patient access, and pharmacy dispensing of isotretinoin. These concerns are taken very seriously and FDA has been working with the sponsors of approved isotretinoin applications and their contractor, Covance, Inc., to find workable solutions prior to the date of full implementation. There is also a possible link between taking this drug and depression, suicidality, and psychosis. For that reason, FDA has strengthened the labeling to help practitioners and patients identify and manage these risks.

Any patient being treated with this drug should be carefully monitored for symptoms of depression, or suicidality or psychosis. Patients should be told to stop the drug and contact their health professional if they experience any of these symptoms. Stopping the drug by itself, however, may not be sufficient. Psychiatric evaluation and intervention may be needed to prevent patients from harming themselves.

Additional Information:

MedWatch Alert: <http://www.fda.gov/medwatch/safety/2005/safety05.htm#Accutane>

iPLEDGE Program:
<https://www.ipleadprogram.com>

FDA Accutane Page: <http://www.fda.gov/cder/drug/infopage/accutane/default.htm>

FDA Celebrates 100 Years of Service to the Nation

The U.S. Food and Drug Administration will celebrate its 100th anniversary in 2006 with a nation-wide program of commemorative events. The January-February 2006 issue of FDA's bimonthly publication, FDA Consumer, traces the agency's history from the passage of pure food and drug laws at the turn of the last century to the challenges posed today by cutting-edge sciences such as genomic and proteomics, and new initiatives like "personalized medicine." This issue can be found at: http://www.fda.ca.gov/fdac/106_toc.html.

FDA dates its origin to June 1906, when President Teddy Roosevelt signed the Food and Drugs Act and entrusted implementation of this law to the Bureau of Chemistry of the U.S. Department of Agriculture. The Bureau, the oldest U.S. consumer protection office, eventually became the FDA, an agency of the Department of Health and Human Services.

Through the years, FDA has provided Americans with increasingly comprehensive, science-based protections that ensure the highest quality of products essential for health and survival. Today, these products represent almost 25% of all consumer spending and include 80% of the national food supply and all human drugs, vaccines, medical devices, tissues for transplantation, equipment that emits radiation, cosmetics, and animal drugs and food.

FDA has launched a special Web page at <http://www.fda.gov/centennial>.

ADMINISTRATIVE ACTIONS: November 1, 2005 – January 31, 2006

PHYSICIANS AND SURGEONS

ABU-ASSAL, MAGED LOTFY, M.D. (G50849) **Loma Linda, CA**

B&P Code §2234(b)(c). Committed acts of repeated negligence and gross negligence in the care and treatment of 1 patient. Revoked. November 28, 2005

BAEZ, ALFONSO M., M.D. (A35887) **Gardena, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, prescribing without performing a good faith prior examination or establishing a medical indication and prescribing to an addict in the care and treatment of 2 patients. Revoked, stayed, placed on 2 years probation with terms and conditions including, but not limited to, completing a prescribing practices course, an ethics course, and a medical record keeping course; obtaining a practice/billing monitor; and maintaining a record of all controlled substances ordered, prescribed, dispensed, administered or possessed and any recommendation or approval for marijuana. January 30, 2006

BANKER, DEBORAH ELLEN, M.D. (G39808) **Malibu, CA**

B&P Code §§141(a), 2234(a), 2305. Disciplined by Colorado for unprofessional conduct as a result of treating patients suffering from macular degeneration with electrotherapy, a form of treatment not approved by the USFDA for this condition; and failed to complete

a California board-ordered clinical training program. Revoked, stayed, placed on 2 years probation with terms and conditions including, but not limited to, completing a clinical training program and ordered to pay cost recovery of \$6,706. January 13, 2006. Judicial review pending.

BARKAL, PAUL K., M.D. (A44292) **San Diego, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, altering or falsifying medical records, and dishonesty in the care and treatment of 3 patients; making false statements in the care and treatment of 2 patients; and providing excessive treatment in the care and treatment of 1 patient. Additionally, charged with unprofessional conduct, insurance fraud, and multiple violations of the terms and conditions of his board-ordered probation. Surrender of license. November 17, 2005

BARRON, RODNEY STEPHEN, M.D. (G40052) **Beverly Hills, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence in the care and treatment of 2 patients and repeated negligent acts, incompetence, failing to maintain adequate and accurate medical records, and unprofessional conduct in the care and treatment of 3 patients. Revoked, stayed, placed on

Explanation of Disciplinary Language and Actions

“Effective date of decision” —
Example: “January 10, 2006” 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.

2 years and 11 months probation with terms and conditions including, but not limited to, completing a clinical training program, a medical record keeping course, and an ethics course; obtaining a practice monitor and ordered to pay cost recovery of \$5,000. November 7, 2005

BERJIS, PARVIZ, M.D. (A42538)
Los Angeles, CA

B&P Code §§2234(c), 2266. Committed acts of repeated negligence, unprofessional conduct, and failed to maintain adequate and accurate medical records in the care and treatment of 6 patients. Revoked. December 16, 2005

BOUTROS, JASON K., M.D. (A42891)
Pasadena, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts, incompetence, and failure to maintain adequate and accurate medical records in the care and treatment of 7 patients. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, completing an educational course in addition to required CME, a medical record keeping course, an ethics course, and ordered to pay cost recovery of \$3,700. January 11, 2006

BURNS, DAVID ERIN, M.D. (C50049)
Houston, TX

B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Texas for failure to adhere to the standard of practice in the care and treatment of 5 patients. Surrender of license. November 4, 2005

CHI, PETER C., M.D. (G77088)
Arcadia, CA

B&P Code §2234(c). Committed acts of repeated negligence by failing to see a patient in a timely manner and failing to consider or begin an evaluation for ascites. Public Letter of Reprimand. December 22, 2005

COHEN, ALAN JAY, M.D. (G51201)
Oakland, CA

B&P Code §§726, 2234(b)(c)(e), 2238, 2261. Committed acts of repeated negligence, gross negligence, unprofessional conduct, dishonesty, sexual misconduct with a patient, violation of drug statutes, obtained controlled substances by fraud, and made false statements in medical records in the care and treatment of 1 patient. Revoked, stayed, placed on 7 years probation with terms and conditions including, but not limited to, abstaining from the personal use or possession of controlled substances, submitting to biological fluid testing, completing the Diversion Program, completing an educational course in addition to required CME, completing an ethics course, obtaining a practice monitor, prohibited from engaging in solo practice, and ordered to pay cost recovery of \$10,000. January 13, 2006

CONSOLVER, JAY PAUL, M.D. (C35429)
Tarzana, CA

B&P Code §§2225.5, 2234(b). Committed acts of gross negligence, unprofessional conduct, and failed to comply with a court order for the release of medical records. Revoked. January 19, 2006

DE BEIXEDON, JOHN K., M.D. (A46593)
Pasadena, CA

B&P Code §2266. Stipulated Decision. Failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Physician completed a clinical training program, a prescribing practices course and a medical record keeping course. Public Reprimand. November 22, 2005

DIETRICK, MICHAEL JOSEPH, M.D. (C36149)
Mill Valley, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, unprofessional conduct and inappropriate prescribing in the care and treatment of 1 patient. Surrender of license. January 5, 2006

DO, KEVIN TIEN, M.D. (G76640)
Cathedral City, CA

B&P Code §§2234(e), 2236(a). Convicted of aiding and abetting healthcare fraud and committed acts of dishonesty or corruption and unprofessional conduct. Revoked, stayed, placed on 10 years probation with terms and conditions including, but not limited to, 1 year actual suspension, passing an oral and/or written examination, completing an ethics course, obtaining a practice/billing monitor, no solo practice, and ordered to pay cost recovery of \$1,145. December 16, 2005

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at the Medical Board's Web Site**

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Click on "Check Your Doctor Online"

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the board by fax at (916) 263-2944,
or by regular mail at:

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

DOMINGUEZ, MIGUEL ANGEL, M.D. (G64086)
Santa Ana, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts and incompetence in the care and treatment of 1 patient. Physician completed an educational course in pain medicine, completed a recertification examination in pain medicine, and paid cost recovery of \$4,000. Public Reprimand. January 17, 2006

DONNELL, DAVID NORMAN, M.D. (A49402)
Dallas, TX

B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Texas for improperly ordering controlled substances, failure to keep adequate records for the receipt and distribution of controlled substances and dangerous drugs, and dispensing a bottle of Ketamine to a friend for use on a pet. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, obtaining a practice monitor; completing a prescribing practices courses; maintaining a record of all controlled substances ordered, prescribed, dispensed, administered or possessed and any recommendation or approval for marijuana; restricted from dispensing, administering, or possessing any Schedule I or II controlled substances; and ordered to pay cost recovery of \$400. January 13, 2006

DURAN, PAUL JOSEPH, M.D. (A60506)
Los Angeles, CA

B&P Code §2234. Stipulated Decision. Committed acts of unprofessional conduct by engaging in gross negligence and incompetence in the care and treatment of 4 patients; excessive prescribing in the care and treatment of 3 patients; repeated negligent acts and failure to maintain adequate and accurate medical records in the care and treatment of 2 patients; and sexual misconduct with 1 patient, prescribing without a good faith prior examination and medical indication, violating drug statutes, and non-compliance with dangerous drug labeling requirements in the care and treatment of 1 patient. Surrender of license. Ordered January 23, 2006 and became effective July 29, 2005.

ERNEST, CARMEL I., M.D. (A42995)
Lancaster, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts, incompetence, and failure to maintain adequate and accurate medical records in the care and treatment of 2 patients; and gross negligence in the care and treatment of 1 patient. Revoked, stayed, placed on 2 years probation with terms and conditions including, but not limited to, completing a clinical training program and ordered to pay cost recovery of \$3,000. January 13, 2006

EXUM, JANICE MARIA, M.D. (G66570)
Compton, CA

B&P Code §2234(c). Stipulated Decision. Committed acts of repeated negligence in the care and treatment of 2 patients. Revoked, stayed, placed on 5 years probation

with terms and conditions including, but not limited to, completing a clinical training program, an educational course in addition to required CME, a medical record keeping course, and an ethics course; obtaining a practice/billing monitor; and ordered to pay cost recovery of \$2,000. January 20, 2006

FARSHIDI, ELAHEH, M.D. (A49801)
Fullerton, CA

B&P Code §2266. Failed to maintain adequate and accurate medical records by failing to document any history relative to a patient's complaints of lumps in her breast or the characteristics of the breast mass on physical exams. Physician completed a medical record keeping course. Public Letter of Reprimand. November 22, 2005

FIELD, STEVEN ALLEN, M.D. (G23165)
Tampa, FL

B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by New York for sexually assaulting a patient in his office. Surrender of license. November 15, 2005

FIERRA, JEFFREY JAMES, M.D. (C33192)
Mayfield Heights, OH

B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Ohio for being convicted of 2 misdemeanor counts of worker's compensation fraud and aggravated theft. Surrender of license. November 28, 2005

FOULADI, ALI, M.D. (A38712)
Newport Beach, CA

B&P Code §§2234(b), 2266. Stipulated Decision. Committed acts of gross negligence and failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Physician must complete a medical record keeping course, an ethics course and ordered to pay cost recovery of \$2,500. Public Reprimand. December 12, 2005

GIGAS, GUNTER GEORGE, M.D. (A38771)
Camarillo, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence and incompetence in the care and treatment of 1 patient and physician failed to successfully complete an oral clinical examination. Surrender of license. January 19, 2006

GILROY, RICHARD GEORGE, M.D. (A25376)
San Diego, CA

B&P Code §§141(a), 725, 2266. Stipulated Decision. Disciplined by U.S. Department of the Navy for repeatedly and excessively prescribing controlled substances and failing to maintain adequate and accurate medical records in the care and treatment of 2 patients. Physician must complete a prescribing practices course, a medical record keeping course, and ordered to pay cost recovery of \$1,000. Public Reprimand. December 12, 2005

**GORSKI-FILHO, TITO F.D.O., M.D. (A68155)
Corona, CA**

B&P Code §2234. 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, a medical record keeping course, and ordered to pay cost recovery of \$5,000. Public Reprimand. November 30, 2005

**GROSS, STEVEN ALAN, M.D. (G25708)
San Diego, CA**

B&P Code §2266. Stipulated Decision. Failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, completing a clinical training program and a medical record keeping course. November 30, 2005

**HAYLING, WILLIAM HARTLEY, M.D. (G45817)
Murrieta, CA**

B&P Code §2261. Stipulated Decision. Made or signed a document which contained false statements. Physician completed an educational course concerning the corporate structure of medical practice and paid cost recovery of \$4,500. Public Reprimand. December 6, 2005

**HEMELA, KATHERINE GOSZONTI, M.D.
(A42074) Thousand Oaks, CA**

B&P Code §§2236, 2239. Stipulated Decision. Convicted of driving under the influence of alcohol. Revoked, stayed, placed on 10 years probation with terms and conditions including, but not limited to, 1 year actual suspension, completing the Diversion Program, and submitting to biological fluid testing. November 28, 2005

**HOOPER, DENNIS GLENN, M.D. (G54464)
Lewisville, TX**

B&P Code §2234(b)(c)(d). Committed acts of repeated negligence, gross negligence, and incompetence in the care and treatment of 4 patients. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing a clinical training program, prohibited from engaging in the clinical practice of pathology unless all final diagnoses are reviewed by a licensed and competent physician, and ordered to pay cost recovery of \$22,844. January 11, 2006. Judicial review pending.

**JACOBSON, DENNIS GREG, M.D. (G83168)
Newport Beach, CA**

B&P Code §§2234(b), 2239(a), 2280, 2354. Stipulated Decision. Committed acts of practicing medicine under the influence of narcotics, self-using narcotics and/or controlled substances, gross negligence, and was terminated from the Diversion Program. Surrender of license. January 5, 2006

**JANUSZKA, HENRY A., M.D. (A18655)
Long Beach, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with violating the terms and conditions of his board-ordered probation by not abstaining from the use of alcohol, being convicted of driving under the influence of alcohol, and self-abusing alcohol. Surrender of license. November 1, 2005

**KARPMAN, BEVERLY ANN, M.D. (G37677)
Los Angeles, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, and failure to maintain adequate and accurate medical records; creating false medical records and insurance fraud in the care and treatment of 3 patients. Revoked, stayed, placed on 4 years probation with terms and conditions including, but not limited to, 180 days actual suspension; completing a medical record keeping course, an educational course in addition to required CME, and an ethics course; obtaining a billing monitor; and ordered to pay cost recovery of \$2,500. December 19, 2005. Judicial review pending.

**LAQUI, CECIL CAGUIOA, M.D. (A41142)
Corona, CA**

B&P Code §2234. 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 and ordered to pay cost recovery of \$4,000. Public Reprimand. January 4, 2006

**LARAMIE, MYTHE, M.D. (G80217)
Fresno, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, incompetence, and failure to maintain adequate and accurate medical records in the care and treatment of 1 patient. Physician completed a clinical training program and ordered to pay cost recovery of \$2,000. Public Reprimand. November 7, 2005

**LEE, ALEXANDER SANG-HYUN, M.D. (A77568)
Apple Valley, CA**

B&P Code §§141(a), 2234, 2305. Disciplined by Virginia for attempting to obtain a Schedule II controlled substance by filling out a prescription illegally. Public Letter of Reprimand. January 9, 2006

**LEUNG, RAYMOND W.P., M.D. (G48262)
Pasadena, CA**

B&P Code §2266. Stipulated Decision. Failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Physician completed a clinical training program and paid cost recovery of \$12,862. Public Reprimand. November 1, 2005

LILLIE, GORDON MACKAY, M.D. (A24445)
La Mesa, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, failing to maintain adequate and accurate medical records, and prescribing without a good faith prior examination in the care and treatment of 1 patient. Physician must complete a clinical training program, a medical record keeping course, and ordered to pay cost recovery of \$3,000. Public Reprimand. January 5, 2006

LOEBEL, HANAN, M.D. (A32683)
Los Angeles, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts and failing to maintain adequate and accurate medical records in the care and treatment of 4 patients. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, completing a clinical training program, an ethics course, a prescribing practices course, and a medical record keeping course; obtaining a practice monitor; maintaining a record of all controlled substances ordered, prescribed, dispensed, administered or possessed and any recommendation or approval for marijuana; and ordered to pay cost recovery of \$2,500. December 15, 2005

LOONEY, CHARLES, M.D. (A41554)
Point Reyes Station, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with violating the terms and conditions of his board-ordered probation by testing positive for alcohol, failing to successfully complete the Diversion Program, and failed to remain in full compliance with his court-ordered criminal probation. Surrender of license. December 29, 2005

MARTINEZ, JOSE ALFREDO, M.D. (G49769)
Huntington Park, CA

B&P Code §§119, 651, 652, 2021(c), 2225.5, 2234(a)(b)(c)(d)(e), 2261, 2266, 2271, 2272, 2285, 2415, 17200, 17500. Stipulated Decision. Committed acts of repeated negligence, gross negligence, incompetence, dishonesty and falsification of medical records, failed to maintain adequate and accurate medical records in the care and treatment of 2 patients; and practiced medicine without a Fictitious Name Permit, permitted false and misleading advertising using his medical license, and failed to produce medical records. Surrender of license. December 1, 2005

MARTZ, WILLARD H., M.D. (C26459)
Miami Beach, FL

B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Florida for using Stabilized Botulinum Neurotoxin Type A, which was an unapproved and unregulated neurotoxin, and failed to note its administration in patients' charts. Surrender of license. December 29, 2005

MATHIAS, HERMAN, M.D. (A41055)
Hemet, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts by not appropriately testing when elevated serum levels were presented during the care and treatment of 1 patient. Physician completed a medical record keeping course and a course in the treatment of chronic liver disease. Public Letter of Reprimand. November 22, 2005

MECOLI, FRANCIS O., M.D. (A29033)
Scottsdale, AZ

B&P Code §822. Stipulated Decision. Physician has a condition affecting his ability to practice medicine safely. Surrender of license. November 8, 2005

MERMAN, JAN H., M.D. (G35728)
Los Angeles, CA

B&P Code §§2234(b), 2266. Committed acts of gross negligence by failing to follow generally accepted guidelines regarding opiate analgesic treatment of chronic pain and failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Physician completed a prescribing practices course and a medical record keeping course. Public Letter of Reprimand. December 8, 2005

MORGENSTERN, JAMES ASHER, M.D. (G49503)
Fontana, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts and gross negligence in the care and treatment of 1 patient. Physician must complete a clinical training program, a medical record keeping course, and ordered to pay cost recovery of \$13,090. Public Reprimand. November 10, 2005

MOTT, ROBERT ALAN, M.D. (G41724)
McKinleyville, CA

B&P Code §§2234(e), 2239(a). Stipulated Decision. Committed acts of dishonesty by responding untruthfully to a CHP officer regarding his use of alcohol; resisting, obstructing, or delaying a peace officer attempting to discharge his duties; and self-abuse of alcohol. Revoked, stayed, 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, submitting to biological fluid testing, completing an ethics course, and ordered to pay cost recovery of \$2,500. December 12, 2005

MURRIETA, PAULO JERARDO, M.D. (G72472)
Modesto, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with acts of gross negligence and incompetence in the care and treatment of 1 patient. Physician completed a clinical training program and ordered to pay cost

recovery of \$3,000. Public Letter of Reprimand.
November 7, 2005

MYSKO, DAVID E., M.D. (G14939)
Newhall, CA

B&P Code §2234. Stipulated Decision. Continued prescribing pain medication for a patient he documented had become addicted to pain medication. Physician completed a medical record keeping course, a prescribing practices course, and paid cost recovery of \$3,000. Public Reprimand. January 17, 2006

NASSERI, PARVIZ, M.D. (A40984)
Beverly Hills, CA

B&P Code §2236(a). Stipulated Decision. Convicted of a felony for sexual exploitation of 2 patients. Surrender of license. December 9, 2005

NATH, MAHENDRA, M.D. (A32279)
Fresno, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with sexual misconduct and gross negligence in the care and treatment of 7 patients and unprofessional conduct for being convicted of 2 misdemeanor counts of battery. Revoked, stayed, placed on 7 years probation with terms and conditions including, but not limited to, completing a clinical training program, prohibited from the solo practice of medicine or from personally treating any patients, and ordered to pay cost recovery of \$10,000. December 19, 2005

NGUYEN, TUONG DAI, M.D. (A65121)
Waxhaw, NC

B&P Code §§141(a), 2305. Disciplined by North Carolina for sexual misconduct during the care and treatment of 2 patients. Revoked and ordered to pay cost recovery of \$966. December 9, 2005

PENA, ADELA P., M.D. (A37943)
Paramount, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, failing to maintain adequate and accurate medical records, repeated acts of clearly excessive use of diagnostic testing, corrupt or dishonest acts, and unprofessional conduct in the care and treatment of 5 patients. Revoked, stayed, placed on 2 years and 11 months probation with terms and conditions including, but not limited to, completing a clinical training program and a medical record keeping course, obtaining a practice monitor, and ordered to pay cost recovery of \$3,100. December 9, 2005

PEREZ, OMA, M.D. (A30938)
EI Monte, CA

B&P Code §2266. Stipulated Decision. Failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Physician must complete a medical

record keeping course and ordered to pay cost recovery of \$3,500. Public Reprimand. December 19, 2005

POPKIN, MICHAEL HOWARD, M.D. (G34154)
Granada Hills, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, and failing to maintain adequate and accurate medical records in the care and treatment of 3 patients and prescribing without a good faith prior examination or medical indication in the care and treatment of 4 patients. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, prohibited from prescribing, dispensing, administering or possessing Schedule I and II controlled substances unless the patient is hospitalized; maintaining a record of all controlled substances ordered, prescribed, dispensed, administered or possessed and any recommendation or approval for marijuana; completing a prescribing practices course, a medical record keeping course, an educational course in addition to required CME, and an ethics course; and ordered to pay cost recovery of \$5,000. November 28, 2005

RANGEL, JAVIER, M.D. (A93933)
Santa Ana, CA

B&P Code §§480(a)(1)(3), 2239. Convicted of misdemeanor driving under the influence of alcohol. Probationary license issued, placed on 5 years probation with terms and conditions including, but not limited to, completing the Diversion Program, submitting to biological fluid testing, abstaining from the personal use or possession of controlled substances and alcohol. Decision

**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.

ALL CALLS ARE CONFIDENTIAL

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(866) 728-9907 (toll-free)

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

effective January 6, 2006, probationary license issued February 1, 2006.

RAVAGO, FRANCISCO LARDIZHBAL, M.D. (A49230) Freedom, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence, unprofessional conduct, and dishonest or corrupt acts by engaging in financial transactions with an elderly patient who was forgetful and confused. Physician has completed a professional boundaries program, an ethics course, and paid cost recovery of \$3,680. Public Reprimand. January 17, 2006

REES, JOSEPH R., M.D. (G15150) South Ogden, UT

B&P Code §2234. Stipulated Decision. No admissions but charged with violating the terms and conditions of his board-ordered probation by committing repeated negligent acts in the care and treatment of 1 patient and gross negligence in the care and treatment of 2 patients. Surrender of license. January 5, 2006

RODRIGUEZ, PAUL LOPEZ, M.D. (C29411) Wichita, KS

B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Oklahoma for aiding and abetting the unlicensed practice of medicine, inappropriately prescribing drugs and controlled substances to patients without sufficient examination or a valid physician-patient relationship, and receiving compensation for professional services not rendered. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, obtaining a practice monitor, completing a prescribing practices course and an ethics course, and ordered to pay cost recovery of \$500. November 7, 2005

SALOMON, JACOB, M.D. (G31033) Lake Bluff, IL

B&P Code §§141(a), 2305. Disciplined by Illinois for failing to address a patient's blood loss while performing an abdominal peritoneal surgical procedure which resulted in the patient's death. Revoked and ordered to pay cost recovery of \$874. December 14, 2005

SANCHEZ, ARMANDO G., M.D. (A44172) Houston, TX

B&P Code §§141(a), 2305. Disciplined by Texas for attempting to solicit the murder of a patient. Revoked and ordered to pay cost recovery of \$560. November 7, 2005

SHARMA, MANORAMA, M.D. (A37350) Fountain Valley, CA

B&P Code §§2052, 2234(d)(e), 2306. Violated the terms and conditions of her board-ordered probation by failing to successfully complete a clinical training program and practicing medicine while suspended. Revoked and ordered to pay cost recovery of \$7,228. November 21, 2005. Judicial review pending.

SHETH, LEENA SATISH, M.D. (A46030) Rancho Cucamonga, CA

B&P Code §§810, 2234(b)(c)(d)(e), 2261, 2262, 2266. Committed acts of repeated negligence, gross negligence, incompetence, unprofessional conduct, failing to maintain adequate and accurate medical records, dishonesty, and creating false or fraudulent medical records by departing from the standard of care in the storage, administration, and record keeping of MMR or varicella vaccine by improperly reconstituting, diluting and administering the vaccine to patients. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing an educational course in addition to required CME; completing an ethics course and a medical record keeping course; obtaining a practice monitor; and ordered to pay cost recovery of \$28,248. December 16, 2005

SINGH, BHAGWANT, M.D. (A30063) Riverside, CA

B&P Code §2234. 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 17 patients. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing a clinical training program, an educational course in addition to required CME, an ethics course and a medical record keeping course; and obtaining a practice monitor. November 25, 2005

SORENSEN, VERNON CLIFFORD, M.D. (G24754) Bakersfield, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with gross negligence and incompetence in the care and treatment of 1 patient. Physician completed a clinical training program and paid cost recovery of \$4,000. Public Reprimand. November 1, 2005

SOWKA, LAWRENCE ROBERT, M.D. (G73314) Lakeland, FL

B&P Code §§141(a), 2305. Stipulated Decision. Disciplined by Florida for leaving a surgical instrument in a patient and failing to promptly remove the instrument. Public Reprimand and ordered to pay cost recovery of \$300. December 15, 2005

SPITZBERG, ERIC HOWARD, M.D. (G64957) Palm Springs, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with self-use of dangerous drugs and violation of drug statutes by possessing and self-administering controlled substances prescribed for others. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, abstaining from the personal use or possession of controlled substances and alcohol, submitting to biological fluid testing, and completing the Diversion Program. November 21, 2005

THOMASON, GAMIN MARY CATHERINE, M.D. (G69086) Petaluma, CA

B&P Code §2234(b). Committed acts of gross negligence by failing to interpret in a timely and accurate manner a fetal heart rate during labor. Physician completed a clinical training program. Public Letter of Reprimand. November 28, 2005

VALLEJO, ARTHUR, M.D. (G64836) West Covina, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts, excessive diagnostic procedures, failing to provide patient records, gross negligence, making false statements, failing to maintain adequate and accurate medical records, and incompetence in the care and treatment of numerous patients. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, 15 days actual suspension; completing a clinical training program, an educational course in addition to required CME, an ethics course, and a medical record keeping course; and ordered to pay cost recovery of \$3,000. December 19, 2005

VO, PHUOC HUU, M.D. (A51044) Hawthorne, CA

B&P Code §2234(d)(f). Violated the terms and conditions of his board-ordered probation by failing to successfully complete a clinical training program; failing to maintain a record of all controlled substances ordered, prescribed, dispensed, administered or possessed; failing to submit timely quarterly declarations; and continued to practice medicine without an approved practice monitor. Revoked. December 29, 2005

WALKER, CHERYL ANN KATHERINE, M.D. (G60259) Sacramento, CA

B&P Code §2234. Stipulated Decision. No admissions but charged with being convicted of misdemeanor petty theft and making false statements on her application for medical licensure and her application for medical privileges. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, ordered to pay cost recovery of \$10,000. December 12, 2005

WARNER, CLARENCE EMANUEL, M.D. (G62334) Van Nuys, CA

B&P Code §§2234(b)(c), 2241, 2242(a), 2266. Committed acts of repeated negligence, gross negligence, failure to maintain adequate and accurate medical records, prescribed controlled substances to an addict, and prescribed dangerous drugs without medical indication in the care and treatment of 1 patient. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing a clinical training program; prohibited from prescribing, dispensing, administering or possessing Schedule I, II, and III controlled substances; maintaining a record of all controlled substances ordered, prescribed, dispensed, administered or possessed and any recommendation or approval for marijuana; completing an educational course in addition to required CME, a medical record keeping course, a prescribing practices course, and an ethics course; obtaining a practice monitor; and ordered to pay cost recovery of \$8,155. November 7, 2005

WEDDLE, JOSEPH L., M.D. (A22229) Levenworth, WA

B&P Code §§141(a), 725, 2234(b)(c)(d), 2241, 2242, 2266, 2305. Violated the terms and conditions of his board-ordered probation by being disciplined by Washington for repeated negligence, gross negligence, incompetence, prescribing excessive amounts of controlled substances, prescribing controlled substances without a prior good faith examination or medical indication, prescribing to addicts, violating state and federal drug laws, failing to maintain adequate and accurate medical records, and unprofessional conduct. Revoked. December 8, 2005

WEINBERGER, MARK STEVEN, M.D. (G69777) Merrillville, IN

B&P Code §§141(a), 2305. Disciplined by Indiana for abandoning his medical practice resulting in a court-ordered receivership to settle over \$5.7 million in unpaid creditor claims and using his medical practice to perpetrate a scheme to defraud numerous insurance companies. Revoked. January 30, 2006

WEST, BRIAN ROBERT, M.D. (G65175) Travis AFB, CA

B&P Code §§2234(e), 2239(a), 2350(e), 2354. Convicted of 2 misdemeanors for driving under the influence of alcohol and committed acts of unprofessional conduct by being terminated from the Diversion Program. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, actual suspension of 1 year or until he provides the board access to program records, enrolling in the U.S. Air Force's Alcohol and Drug Abuse Prevention and Treatment Program (ADAPT) and completing the Diversion Program, abstaining from the use of alcohol, submitting to biological fluid testing, participation in Alcoholics Anonymous, completing an ethics course, obtaining a practice monitor, prohibited from engaging in the solo practice of medicine, and ordered to pay cost recovery of \$34,186. November 16, 2005

For further information...

Some public documents related to these cases are available on the board's Web site at www.caldocinfo.ca.gov. Click the "Public Document Lookup" link in the right column of the home page. Other documents are available at a minimal cost by calling the Medical Board's Central File Room at (916) 263-2525.

**WILLIAMS, ELSWORTH PEARL, JR., M.D.
(A24406) Pomona, CA**

B&P Code §§2238, 2241, 2242(a). Stipulated Decision. Violated federal drug statutes and prescribed without a good faith prior medical examination in the care and treatment of 7 patients, and prescribed to an addict in the care and treatment of 1 patient. Surrender of license. November 14, 2005

DOCTORS OF PODIATRIC MEDICINE

**GAROFALO, JOSEPH THOMAS, D.P.M. (E1384)
Santa Barbara, CA**

B&P Code §2234. Stipulated Decision. Violated the terms and conditions of his board-ordered probation by failing to complete a clinical training program. Revoked, stayed, and the original 3 years probation is extended until he completes a clinical training program and pays cost recovery of \$11,500. November 28, 2005

**JACKSON, LEONDRAS G., D.P.M. (EFE2555)
Riverside, CA**

B&P Code §§2234, 2261. Stipulated Decision. Violated the terms and conditions of his board-ordered probation by committing acts of dishonesty or corruption and unprofessional conduct by failing to post and provide notice of the decision to employees, failing to obtain a practice monitor, and failing to complete an ethics course. Surrender of license. November 25, 2005

**JENNE, DAVID KILE, D.P.M. (E3917)
Moreno Valley, CA**

B&P Code §§2234(b)(c), 2266. Committed acts of repeated negligence, gross negligence, and failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Revoked, stayed, placed on 1 year probation with terms and conditions including, but not limited to, completing an ethics course, providing the board with documentation of required CME completion, and ordered to pay cost recovery of \$13,500. December 1, 2005

**MARANGONI, ANNE LOUISE, D.P.M. (E3219)
Pacific Grove, CA**

B&P Code §2234. Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, and excessive treatment 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 a prescribing practices course; and ordered to pay cost recovery of \$5,000. January 12, 2006

**SAVRAN, STEVEN H., D.P.M. (E2891)
Anaheim, CA**

B&P Code §2239(a). Violated the terms and conditions of his board-ordered probation by failing to abstain from the use of controlled substances, failing to pay for the cost of drug testing, failing to submit a rehabilitation plan

for approval, failing to complete an ethics course, and failing to notify the board of address changes. Revoked and ordered to pay cost recovery of \$6,401. December 1, 2005. Judicial review pending.

PHYSICIAN ASSISTANTS

**GATES, LAWRENCE DAVID, P.A. (PA18208)
San Bernardino, CA**

B&P Code §480(a)(1)(2)(3). Stipulated Decision. Convicted of a misdemeanor for 1 count of battery. Probationary license issued, placed on 1 year probation with terms and conditions. Decision effective November 15, 2005, probationary license issued November 23, 2005.

**MILLER, MICHAEL JOHN, P.A. (PA18235)
Norco, CA**

B&P Code §480(a)(1). Stipulated Decision. Convicted of a misdemeanor for 1 count of battery and 1 count of assault by a public officer. Probationary license issued, placed on 2 years probation with terms and conditions. Decision effective November 30, 2005, probationary license issued December 7, 2005.

**OWER, KRISTINE M., P.A. (PA15583)
Glendora, CA**

B&P Code §§725, 2234(b)(c)(d)(e). Stipulated Decision. Committed acts of repeated negligence, gross negligence, incompetence, dishonesty, and excessive prescribing in the care and treatment of 4 patients. Revoked, stayed, placed on 7 years probation with terms and conditions including, but not limited to, 6 months actual suspension; obtaining a monitor; may not practice except as an employee of a hospital or for a medical group consisting of 3 or more physicians and in which she has no financial interest; required to have full-time, on-site supervision; maintaining a record of all controlled substances administered, transmitted orally or in writing, or handed to a patient; completing an ethics course; and ordered to pay cost recovery of \$2,500. December 14, 2005

**RAMIREZ, MANUEL DEATOCHA, P.A. (PA14601)
Firebaugh, CA**

B&P Code §§2234(a)(e), 2239, 2280, 3527(a). Committed acts of unprofessional conduct, dishonesty, unlawful use and self-administering of controlled substances, violating drug statutes, and intoxicated while treating patients. Revoked. November 23, 2005

REGISTERED DISPENSING OPTICIAN

**BAGDASARYAN, EMIN (SL4200)(RDO6381)
Los Angeles, CA**

B&P Code §§2559.3, 2555.1. Stipulated Decision. Convicted of 1 count of felony grand theft and 1 count of felony for presenting false Medi-Cal claims. Surrender of license. December 16, 2005

**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.medbd.ca.gov/
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ACTION REPORT — APRIL 2006
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