

Action Report

Medical Board of California

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Medical Board of California Meeting

2006

July 27–28
San Francisco

November 2–3
San Diego

All meetings are open
to the public.

Use of Mid-level Practitioners For Laser, Dermabrators, Botox, and Other Treatments

Due to an ongoing influx of calls to the board regarding who may perform what type of medical/cosmetic procedure and where, the following frequently asked questions and responses are provided for informational purposes and as a reminder. This is a reprint and update to an article published in the October 2002 *Action Report*.

Who may use lasers or intense pulse light devices to remove hair, spider veins, and tattoos?

Physicians may use lasers or intense pulse light devices. In addition, physician assistants and registered nurses (not licensed vocational nurses) may perform these treatments under a physician's supervision. Unlicensed medical assistants, licensed vocational nurses, cosmetologists, electrologists, or estheticians may not legally perform these treatments under any circumstance, nor may registered nurses or physician assistants perform them independently, without supervision.

Who may inject Botox?

Physicians may inject Botox, or they may direct registered nurses, licensed vocational nurses, or physician assistants to perform the injection under their supervision. No unlicensed persons, such as medical assistants, may inject Botox.

I've been approached by a nurse to be her "sponsoring physician" for her laser and Botox practice; would that be legal?

No. There is no such thing as a "sponsoring physician." Nurses may not, under California law, employ or contract with a physician for supervision. A nurse may not have a private practice with no actual supervision. While the laws governing nursing recognize "the existence of overlapping functions between physicians and registered nurses" and permit "additional sharing of functions within organized health care systems that provide for collaboration between physicians and registered nurses" (Business and Professions Code section 2725), nurses only may perform medical functions under "standardized procedures." The board does not believe this allows a nurse to have a private medical cosmetic practice without any physician supervision.

I've been asked by a layperson to serve as "medical director" for a "medi-spa" that provides laser and other cosmetic medical services; would that be legal?

No. No one who cannot legally practice medicine can offer or provide medical services (Business and Professions Code section 2052). A physician contracting with or acting as an employee of a lay-owned business would be aiding and abetting the unlicensed practice of medicine (Business and Professions Code sections 2264, 2286, and 2400). To offer or provide these services, the business must be a physician-owned medical practice or a professional medical corporation with a physician being the majority shareholder.

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THE MISSION OF THE MEDICAL BOARD OF CALIFORNIA

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

President's Report

I remember how unfamiliar the room felt. It wasn't my bedroom, that's for sure. I was eight years old, in a hospital, and frightened. My throat was sore. I remember counting backwards ... and not wanting to go to sleep. Of course, it was only a tonsillectomy. But at eight, I feared they'd taken out my vocal cords and I would never talk again. For those who recently elected me as president of the Medical Board, they know that didn't happen.



Steve Alexander
President of the Board

As young patients, our early experiences with doctors can shape our opinions and attitudes forever. They can be positive and rewarding. Life affirming. Or, they can cause fear, intimidation and skepticism between us and the professionals in whose hands we place our lives.

My memories of doctoring are clear, consistent and vivid. They were good. They established a foundation for my views about what healthcare consumers want and should expect, even in today's hectic, office building, technology-laden, managed-care experiences.

These memories have also made me thankful for the numerous physicians, healthcare providers and leaders who continue to shape my view of healthcare today. Drs. Hazem Chehabi, Gary Gitnick, Bud Alpert, Ron Wender, Mitch Karlan – all board presidents prior to me – who each had unique

leadership qualities that shaped the Medical Board.

Dr. Richard Fantozzi, with whom I've spent

countless hours listening and learning as fellow board member and now friend. Drs. Ken Gross and Leslie Mark, whom I've known as friends and dermatologists for over 25 years, and whose commitment to patients, professional leadership and care are remarkable. Ruth Riedel, CEO of Alliance Healthcare Foundation, who presses us constantly to remember the countless

uninsured and underinsured who go without medical care. Dr. David Bortz, my family practitioner, who has ensured my input is integral to my treatment and care. Dr. William Norcross, a dedicated leader who pioneers the PACE program at UCSD that helps physicians who need remedial skill-building under the board's disciplinary program.

Each of these people, and more, has shaped my view of medicine and prepared me for the challenge and opportunity of serving as the president of your Medical Board. I

take this role very seriously. I know the trust inherent in leadership, especially one that shapes the regulation and discipline of over 120,000 physicians and surgeons in our state.

As I begin my term, I hope to continue to learn and grow in my awareness of what it takes to practice good medicine. I promise to reach out and hear from you, our licensees, various consumer groups, professional organizations and others. I intend to raise both awareness and credibility of the board in the minds of those who count on us to meet our consumer protection mandate. The board has a full plate this year implementing our new enforcement program, which promises more timely, effective, and efficient enforcement and discipline. We are initiating a review of the board's structure and operations to fulfill our commitment to the state legislature and the

administration.

We have a lot to do.

Serving as president of the Medical Board of California

“I intend to raise both awareness and credibility of the board in the minds of those who count on us to meet our consumer protection mandate.”

is a privilege, an honor and an important public trust. I will work hard to earn the confidence of the 120,000 physicians and surgeons we license, the staff that provides service excellence, my fellow board members, the legislature and administration, and most important, the 35 million people in California on whose behalf we fulfill our mission of consumer protection.

(Continued on page 5)

Sorry Works!

by Doug Wojcieszak, The Sorry Works! Coalition

Can all medical malpractice lawsuits be prevented with one little word: “sorry?” No, but the folks at The Sorry Works! Coalition believe the development of comprehensive disclosure, apology, and early-offer programs can dramatically reduce lawsuits and associated liability costs for healthcare and insurance professionals.

Sorry Works! spokesperson Doug Wojcieszak recently spoke before the California Medical Board on the benefits and promise of disclosure and apology after medical errors. For example, the University of Michigan Health System has cut their lawsuits in half and reduced litigation expenses by two-thirds, or \$2 million annually. Furthermore, Michigan leaders believe their disclosure program is improving the quality of patient care because errors are learned from instead being shoved under the rug. Other hospitals and insurers including Kaiser Hospitals, Catholic Healthcare West, and Stanford Teaching Hospitals are reporting similar positive results from apology and disclosure programs. The interest in Sorry Works! is very high among hospitals, insurers, and medical associations.

Sorry Works! is a process and a program that emphasizes communication and compassion for patients, families, and healthcare professionals. After a bad outcome or adverse event, Sorry Works! says a root cause analysis should be performed to determine if the standard of medical care was met – or not. If the standard of care was breached,

the hospital and/or insurance company contacts the patient/family to schedule a meeting with them and their attorney. The following events happen in the disclosure meeting:

- Apology
- Admission of fault
- Explain what happened and how it will never happen again
- Offer of fair, upfront compensation

This Sorry Works! approach reduces anger with patients and families, and provides healing for all sides, including the healthcare professionals. By reducing anger, the chances of litigation are greatly diminished and settlement costs are lower. Cases are also settled quickly, saving enormous sums on defense litigation expenses.

On the flip side, if there was no error – it was simply a bad outcome – the hospital and/or insurer still meet with the patient/family and their attorney, open the records, explain what happened, and basically prove their innocence. Apologies are offered, but not settlements, and the hospital/insurer will defend the medical staff all the way to jury verdict if necessary in such cases. This act of communication and conviction prevents many non-meritorious lawsuits.

For more information on Sorry Works!, please visit www.sorryworks.net or call (618) 559-8168.

California Board Members Serve National Organization for Medical Boards

by Drew Carlson, Director of Communications

Several members of the Medical Board of California serve the public on a national level through their service to the Federation of State Medical Boards (FSMB), a not-for-profit association representing the 70 state medical boards in the United States and its territories. The FSMB works closely with state medical boards to improve the quality and safety of health care by promoting high standards for physician licensure and practice.

Public member Hedy Chang is a member of FSMB’s Program Committee, which provides guidance in developing content for the FSMB’s Annual Meeting, the organization’s premier educational event. James Bolton, Ph.D., serves on the Editorial Committee, which reviews articles and provides editorial guidance to the FSMB’s

flagship publication, the Journal of Medical Licensure and Discipline. Richard Fantozzi, M.D., served on the FSMB’s Special Committee on the Evaluation of Undergraduate Medical Education, which recently issued a report after an in-depth study of systems currently used to classify medical school programs located outside the U.S. and Canada. Executive Director Dave Thornton serves on the FSMB’s Advisory Council of Board Executives, which assists the FSMB in identifying new projects or enhancing current programs and services to fulfill the needs of member medical boards.

For more information about the FSMB, please visit www.fsmb.org.

Physicians as Educators

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

The Medical Board of California's Steven M. Thompson Physician Corps Loan Repayment and Physician Volunteer programs, as previously mentioned (April 2006 *Action Report*), have by statute (AB 920, Aghazarian), been enveloped into the California Physician Corps and transitioned to the Health Professions Education Foundation (HPEF), effective July 1, 2006. This transfer will promote the development of the California Physician Corps. Two Medical Board members, Barbara Yaroslavsky and I, were appointed to the Board of Trustees of the foundation in January 2006. I chair program development of all programs on behalf of HPEF. There are currently 10 other programs related to nursing and allied health professions that provide loan repayment and scholarship programs.

Recent legislation in place will grow the number of programs and financial support of scholarships and loan repayment. HPEF is developing regulations for three such programs. The Medical Board and its staff who are knowledgeable about the program will continue to work with the foundation during the transition, which is expected to take 6–12 months. The Medical Board's willingness to cooperate and to continue staff support will ensure a seamless transition to HPEF.

At this point, working with the UC Davis Telemedicine & eHealth Center (CTEC), we have corroborated a "proof of concept plan" to develop an educational series using the volunteer physician workforce. There is considerable enthusiasm from all concerned to make this concept part of access to healthcare in the state of California. As this publication goes to print, we tentatively have a target date of June 27, 2006 to have the first telemedicine presentation with a volunteer physician delivered via telemedicine to multiple sites throughout our state. The media was invited to view this event held at the Venice Family Clinic in Venice, CA. There are several telemedicine networks available, including the UC system, the VA system and CTEC, to cover a large footprint in the state.

We plan that the presentation will be interactive and that the target audience initially will be physicians. An essential element of the development of this program will be to have previously edited and approved modules ready for presentation, including but not limited to diabetes, obesity, asthma, emergency medical services and disaster preparedness.

I have had very good dialog and cooperation with Cesar Aristeiguieta, M.D., director of the Emergency Medical Services Authority, and president of the Medical Board's Division of Medical Quality, to provide the modules on emergency services and disaster preparedness.

Although the first presentation will be directed to a physician audience, it is my every intent that target audiences will include consumers, clinical staff, and other, specific groups such as police and fire personnel. Physicians have always been interested in learning and providing education. The vision of this concept is that the physician volunteer workforce can, in addition to direct patient care, act as educators to multiple groups of individuals within California. I hope to promote this vehicle as an option to manage chronic illness in underserved areas in California.

One of the benefits of the HPEF is our ability to include nursing personnel in this corps of volunteers and educators. On June 1, 2006 the HPEF Board of Trustees met as well as its program committee. At that meeting I appointed Mary Cannobio, another committee member who is on the advisory council to the HPEF and who is very familiar with the nursing personnel in the state, and asked that she explore their willingness and readiness to be part of the volunteer group.

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

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

Your Address of Record is Public

www.caldocinfo.ca.gov

Click on "Check Your Doctor Online"

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

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

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

I now live 3,000 miles away from my childhood experiences. I received news this past year about my childhood doctor. Richard Ziegler had passed away. I closed my eyes and a wealth of memories rushed in.

I hope you, as physicians and healthcare providers, wherever you are, remember this. Each day, each patient, each time you provide care, you create a defining moment

for someone's impression of healthcare. Make it a memory that will uphold the highest standards of medical practice. Make it an experience that will be remembered positively by your patients and their loved ones.

And I promise to make you proud during my opportunity to leave something behind on behalf of California's patients and the physicians who provide them care.

New Division Presidents

Division of Licensing: The DOL is responsible for protecting the public by setting standards for licensure as a physician in California and ensuring that applicants meet those requirements.

Richard D. Fantozzi, M.D.

Dr. Fantozzi was appointed to the Division of Licensing by Governor Gray Davis in 2001. He was reappointed by Governor Arnold Schwarzenegger in 2005. He was recently reelected president of the Division of Licensing. He was in addition elected secretary to the full board. He also is a member of the following Medical Board committees: Executive; Diversion; chair, International Medical Education; Public Education; and chair, Midwifery. In prior years he was chair of the Access to Care Committee, from which the Volunteer Program developed to become what is now the Volunteer Physician Corps.

He was appointed by the Medical Board to serve on the Board of Trustees of the Health Professions Education Foundation in January 2006, where he chairs the Program Development Committee, and serves on the Development Committee. Dr. Fantozzi recently received recognition for service on the Federation of State Medical Boards' Special Committee on International Medical Education.

Dr. Fantozzi earned his medical doctorate degree from the University of Illinois College of Medicine. He completed his postgraduate education at the University of California, San Francisco. He is board certified in head and neck surgery and is a member of several professional societies.

Division of Medical Quality: The DMQ is responsible for public protection by the regulation of physician conduct through the enforcement of the provisions of the Medical Practice Act.

Cesar Aristeiguieta, M.D.

Dr. Aristeiguieta was appointed to the Division of Medical Quality by Governor Arnold Schwarzenegger in 2004. He is a board-certified emergency physician and the Director of the California Emergency Medical Services Authority. Dr. Aristeiguieta is also a clinical assistant professor of emergency medicine at the University of Southern California, Keck School of Medicine, and the University of California, Davis.

He is also a member of the following Medical Board committees: Executive; Diversion; International Medical Education; and was a member of the Board's Pain Management Statutes Task Force.

Dr. Aristeiguieta earned his medical doctorate degree from the University of Southern California and his bachelor of science from California State University, Bakersfield.

Preventive Medicine and the Seven Deadly Sins: Avoiding Discipline Against your Medical License

by Laura Sweet, Supervising Investigator II
Los Angeles Metropolitan Area

Most newly hired investigators for the Medical Board of California find the prospect of investigating physicians intimidating. There is something about having the initials M.D. succeed a name that implies a certain level of intellect – of accomplishment – of ... virtue?

Of course, we quickly learn that despite how some revere physicians in our society, physicians are human beings. Human beings are flawed. Flaws pervade our best intentions. In fact, fallibility is so predictable that the ancient adage, “Seven Deadly Sins,” remains a relevant description of our moral challenges. And, this includes doctors!

This series of articles will explore how the Seven Deadly Sins impact physicians. They will describe relevant code sections, how we commonly see these sections violated, and what precautions you can take to decrease the likelihood of discipline against your medical license.

Let’s begin with what may be the most obvious of the “Seven” for physicians: Lust

Business and Professions Code section 726 prohibits sexual relations with patients. The law reads: *“The commission of any act of sexual abuse, misconduct or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division. ... This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.”*

It is important to note that although this section sanctions providing medical treatment to a spouse or domestic partner equivalent, physicians should be aware that they are required to practice medicine with the same degree of care and professionalism as they would for a “conventional” patient. If drugs are prescribed, there should be a good faith examination undertaken and documented. There is no exclusion from the requirement to keep an adequate and accurate medical record for a family member. Just remember, there should be no difference in how you treat your “spouse” patient versus how you treat your “office” patient.

Business and Professions Code section 729 prohibits sexual exploitation of a patient or client by a physician and surgeon or psychotherapist. It reads: *“Any physician and surgeon, psychotherapist, alcohol drug abuse*

counselor or any person holding himself or herself out to be a physician and surgeon, ... who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon, ... has referred the patient or client to an independent and objective physician and surgeon, ... or recommended by a third-party physician and surgeon, ... for treatment, is guilty of sexual exploitation by a physician and surgeon, ...”

This violation is a public offense, which means it is a crime. A first offense constitutes a misdemeanor. A second conviction, or a case where there are two or more victims, is actually a felony.

Of interest, this law also includes the proviso: “... in no instance shall consent of the patient or client be a defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching any intimate part of a patient or client unless the touching is outside the scope of medical examination and treatment, or the touching is done for sexual gratification.”

Similar to Business and Professions Code section 726, this section also does not apply to sexual contact between a physician and his or her spouse or person in an equivalent domestic relationship when that physician provides medical treatment, other than psychotherapeutic treatment, to his or her spouse, or spousal equivalent.

Each Medical Board investigator probably can recount three or four outrageous cases of sexual misconduct that they have investigated. For me, one was a renowned psychiatrist who had a seven-year affair with a schizophrenic patient. Their sexual relationship began in the library of a university medical school. Their relationship culminated with the psychiatrist using the patient to procure prostitutes with whom he, and the patient, would have group sex. Instead of paying money for the prostitutes’ services, he bartered by providing them with prescriptions for Klonopin or other controlled substances. Not to be limited to a mere one or two violations of law, he would then bill Medi-Cal for group therapy (definitely one of the more creative liberties I’ve seen taken with a CPT code). This physician’s license was revoked and he was also criminally convicted of fraud.

There are less dramatic cases, however. There are the cases where the physician and patient begin a

(Continued on next page)

professional relationship, but the professionalism erodes into subtle boundary violations. The patient is invited to call the physician by his or her first name. The physician begins flirting. There may be a lunch date. A variety of increasingly intimate behaviors ensue until ultimately, a sexual relationship commences. This scenario was realized for a pain management patient who suffered from intractable back pain. Initially, she and the physician had an appropriate relationship. The physician became increasingly familiar. The patient was greatly flattered. Before long, the patient engaged in an extramarital affair with the physician, but there was an unintended consequence to this affair. As the physician and patient's relationship intensified, so did the patient's stress. This exacerbated her pain condition. The physician's ability to make sound medical decisions suffered. In this example, not only were charges of sexual misconduct filed, but this lack of objectivity led to quality of care violations. These were two seemingly rational people who fell in love with each other with very serious consequences to both. It does not matter that the patient is willing. It does not matter if the patient flirts. It is the physician's responsibility, as the professional, to take whatever measures are necessary to prevent a sexual relationship from occurring.

John R. Sealy, M.D., an expert on the subject of sexual addiction and sexual misconduct by physicians, has provided training to Medical Board investigators. He provided this valuable missive, entitled "General Truths" to identify known dynamics of sexual misconduct involving physicians.

1. No matter how difficult or boundary testing the patient/client may be, IT IS ALWAYS the professional's responsibility to maintain appropriate boundaries or, if unable to do so, to refer the patient/client for competent help or counsel.
2. Sexual misconduct usually begins with relatively minor boundary violations. Boundaries include time, place/space, money, gift/services, clothing and language.
3. Crossing boundaries by a professional is almost always a power differential.
4. The professional must refrain from obtaining personal gratification at the expense of the patient/client. The main source of personal pleasure comes from the professional pleasure gained in helping the patient/client. The fee for professional services is the only material satisfaction a physician should receive directly from the patient/client.
5. No level of training, nor school of medicine, school of law, school of dentistry, or school of psychotherapy confers immunity from sexual misconduct by a professional.

If this is not compelling enough information to dissuade mixing romance with medicine, consider this: sexual misconduct cases will more often result in a temporary suspension of a license than any other type of case. Sexual misconduct cases also are much more likely to result in a disciplinary outcome of surrender or revocation of license, versus probation. (For example, of 11 cases resolved during fiscal year 04-05, seven resulted in a surrender of license, three resulted in revocation and only one resulted in probationary terms and conditions.)

Consider the following red flag situations for physicians when interacting with patients:

- You start talking to the patient about the patient's personal life
- You check your personal appearance before a particular patient arrives
- A patient is scheduled at the end of the day to "allow for more time"
- You allow your staff to go home early while you interact with a particular patient
- You offer the patient food or drink
- You exchange gifts or hugs with a patient
- You offer free care to a particular patient
- You call the patient at home when the condition does not warrant it
- You meet the patient outside the office

We investigators recognize that the vast majority of physicians are consummately professional and will conclude their medical career without an allegation of sexual misconduct. We also recognize that patients make false allegations. Our duty, as objective finders of fact, is to gather the evidence to determine whether there has been a violation. There are precautions you can undertake to protect yourself. We strongly recommend having a chaperone present during the examination of any patient, regardless of gender. It is also important to thoroughly explain examinations of intimate areas, as complaints often arise because the patient is taken by surprise by an exam, or doesn't understand the necessity of a particular exam. Additional suggestions can be found in the "The Garman Guidelines" (*see next page*).

Take a few moments to review this information. Heeding these suggestions will underscore the necessity of keeping this sin banished from your practice, will provide you with information that should prevent misunderstandings from arising and, consequently, complaints from being filed against you.

Coming up next: Sloth

Los Angeles Physician Receives Medical Board's Recognition Award



At its May 5 meeting in Santa Ana, the board recognized the work of allergist Craig Jones, M.D. on behalf of the patients of Los Angeles County. Dr. Jones is the chief of the Division of Allergy and Immunology, Department of Pediatrics, at the Los Angeles County+University of

Southern California Medical Center. He is the director of the center's Allergy/Immunology Residency Training Program.

To help combat asthma in children, Dr. Jones, with the Asthma & Allergy Foundation of America, Southern California Chapter, developed the Breathmobile program, which he serves as its volunteer medical director. The Breathmobile is an asthma clinic on wheels, and brings free treatment and medicine to disadvantaged children at over 120 schools, resulting in significantly fewer emergency room visits, and a dramatic decrease in school

absenteeism. The first Breathmobile was launched in 1995, there are now five units in Southern California, and four more will become operational this year.

The Breathmobile is the first project in the country to exclusively treat children with asthma at their school site. Each Breathmobile is staffed by a team from the Division of Allergy and Immunology at LAC+USC, visits about 20 targeted schools every six weeks, and enrolls about 1,000 new patients per year.

The Physician Recognition Committee was created by the Medical Board to recognize the demonstration of excellence by individual physicians or groups of physicians who strive to improve access and to fill gaps in the healthcare delivery system for underserved populations.

Nominations for 2007 will be accepted after August 15, 2006. The award has been renamed the "Physician Humanitarian Award" and broadened by the board to include work performed by California physicians anywhere in the world. For more information, please visit the board's Web site at: www.medbd.ca.gov/Physician_Recognition.htm.

The Garman Guidelines

by J. Kent Garman, M.D.

President, Stanford University Hospital Medical Staff

"Waiting for your first accusation before taking some of these simple steps is foolhardy."

1. Allow patients to disrobe and dress in private and offer cover gowns and appropriate drapes. (Yes, some physicians do not practice these simple steps.)
2. Have one of your office staff in the room whenever possible, especially during breast and pelvic exams. (I have talked to many physicians who feel this is silly and an added burden on their office staff. However, many women are very offended if these exams are done without another person in attendance. It would be reasonable to have your office nurse ask your patient if she would prefer to have an attendant in the room.)
3. Improve your communication with the patient about the reasons for and methods of examinations.
4. Avoid any flirtatious behavior toward patients. (Since you are perceived as a "power" figure, the patient may be hesitant to complain directly to you about jokes or other "innocent" behavior.)
5. Ask someone else to review your office procedures regarding physical exams with a view toward avoiding any risky procedures or making necessary changes. (One series of complaints was dealt with by asking the physician's female office staff to review and change standard examination procedures to avoid future problems.)

Use of Mid-level Practitioners *(Continued from page 1)*

I see these ads for “Botox Parties” and think that it has to be illegal. Is it?

The law does not restrict where Botox treatments may be performed, as long as they are performed by a physician or by a registered nurse, licensed vocational nurse, or physician assistant under a physician’s supervision.

Who may perform microdermabrasion?

It depends. If it’s a cosmetic treatment, that is to say it only affects the outermost layer of the skin or the stratum corneum, then a licensed cosmetician or esthetician may perform the treatment. If it’s a medical treatment, that is to say it penetrates to deeper levels of the epidermis, then it must be performed by a physician, or by a registered nurse or physician assistant under supervision. Treatments to remove scarring, blemishes, or wrinkles would be considered a medical treatment. Unlicensed personnel, including medical assistants, may not perform any type of microdermabrasion.

I would like to provide non-medical dermabrasion, and hire an esthetician to perform that and also cosmetic facial and skin treatments. What do I need to do?

It is legal for physicians to hire licensed cosmetologists or estheticians to perform cosmetology services, if they have obtained a facility permit from the Bureau of Barbering and Cosmetology. You may apply for a permit with the Department of Consumer Affairs (DCA), Bureau of Barbering and Cosmetology, 2420 Del Paso Blvd., Sacramento, CA 95834. You may obtain application forms at the DCA Web site at www.dca.ca.gov. All licensed cosmetologists, including estheticians, must perform their services in a facility with a permit.

Why can’t I use a medical assistant instead of a nurse?

Medical assistants are not licensed professionals. While doctors have become accustomed to their assistance in medical office practices, medical assistants are not required to have any degree, nor do they have to pass an examination or be licensed. For that reason, the law only allows them to perform technical supportive services as described in sections 2069-2071 of the Business and Professions Code, and Title 16, California Code of Regulations, sections 1366-1366.4.

What is the penalty if I get caught using or helping an unlicensed person to perform medical treatment?

The law provides a number of sanctions, ranging from license discipline to criminal prosecution, for aiding and abetting the unlicensed practice of medicine. Physicians

could be charged with aiding and abetting unlicensed practice, and the employee could be charged with unlicensed practice.

I understand that all of these practices may be illegal, but I see advertisements all the time for these kinds of illegal practices. What should I do?

You may file a complaint with the Medical Board. To do so, please send the advertisement, the publication name and date, and your address and telephone number where you may be reached for further information, to our Central Complaint Unit at 1426 Howe Avenue, Suite 54, Sacramento, CA 95825. The board will contact the business, inform them of the law, and direct them to cease any illegal practice. If it is simply the advertisement that is misleading, they will be directed to change or clarify the ad.

It is impossible to cover all of the relevant legal issues in a short article, and these questions and answers are not a substitute for professional legal advice. Physicians may want to consult with their attorneys or malpractice carriers about the use of their office personnel. In addition, the board has a number of written materials with more thorough information on this subject. There are legal opinions on the use of lasers and dermabrasion, materials outlining the legal limitations on use of medical assistants, as well as the actual statutes and regulations. To request any of these documents, please contact the Medical Board of California, 1426 Howe Avenue, Suite 92, Sacramento, CA 95825, or call (916) 263-2389.

Medical Board of California New Officers for 2006/2007

Full Board

Steve Alexander, President
Lorie G. Rice, M.P.H., Vice President
Richard D. Fantozzi, M.D., Secretary

Division of Medical Quality

Cesar Aristeiguieta, M.D., President
Martin Greenberg, Ph.D., Vice President
Barbara Yaroslavsky, Secretary

Division of Licensing

Richard D. Fantozzi, M.D., President
Laurie C. Gregg, M.D., Vice President
Hedy Chang, Secretary

Recent Steven M. Thompson Physician Corps Loan Repayment Program Awardees



At left: Assembly Member Greg Aghazarian (second from left) recently presented Legislative Proclamations to Jorge Del Valle, M.D. (left) and Lyle Forehand, M.D. (second from right), awardees of the loan repayment program, both of whom work in Modesto, CA. Dr. Del Valle is a family practitioner who works at the Golden Valley Health Center, and Dr. Forehand is a psychiatrist at the Stanislaus County Behavioral Health and Recovery Services and at Stanislaus Health Services. Pictured at right is Richard Fantozzi, M.D., who is president of the board's Division of Licensing; he also served as the chair of the 2006 Loan Repayment Program Selection Committee.



Bethany Blacketer, M.D. (left, shown with Aurora Garcia, CEO of the Livingston Medical Group), was a member of the first class of awardees of the Loan Repayment Program. Dr. Blacketer and the other 2003 awardees are now completing their final year of service under the program. The Medical Board congratulates

these young physicians and is proud of the service they provided to the underserved communities of California.

In Remembrance of Assembly Member Marco Firebaugh

The Medical Board acknowledges with sadness the passing of former Assembly Member Marco Firebaugh, who represented a district in southeast Los Angeles County. In 2002, Mr. Firebaugh carried legislation which created the Physician Corps Loan Repayment Program. During the first three years of this program, awards of almost \$5.9 million have been made to 65 physicians working in underserved areas of California. Mr. Firebaugh recently was a visiting professor and a fellow at the UCLA School of Medicine, Center for the Study of Latino Health and Culture. The Medical Board was fortunate to have worked with Mr. Firebaugh in creating the loan repayment program.



Assembly Member Marco Firebaugh, Linda Lucks (Board of Trustees member for the Health Professions Education Foundation and former Medical Board member), Mitch Karlan, M.D. (past president of the Medical Board) are shown at an event celebrating the success of the Physician Corps Loan Repayment Program.

Have You Met the CME Requirement Mandated by AB 487?

Deadline: 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 must be *completed* by December 31, 2006. All physicians licensed on and after January 1, 2002 must complete this requirement within four years of their initial license or by their second renewal date, whichever occurs first.

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

The board has published and continues to publish, as a courtesy, 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.

CME COURSES: FULFILLING AB 487 MANDATE

Pain Management and End-of-Life Care

November 16-17, 2006

Fairmont Hotel, San Francisco, CA

Sponsored by:

University of California, San Francisco
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

Managing GYN Pain

Strategies for assessment and management of pain syndromes in women and end-of-life care

October 21-22, 2006

Hyatt Regency San Francisco, CA

November 3-4, 2006

Hyatt Regency Long Beach, CA

13 Category 1 credits

Contact: Contemporary Forums
(800) 377-7707
info@cforums.com, or
www.contemporaryforums.com

CME Accredited Study in

Pain Management and Treatment of Terminally Ill and Dying Patients

August 6, 2006

September 8-9, 2006

October 6-7, 2006

November 3-4, 2006

December 1-2, 2006

Hyatt Regency Newport Beach, CA

Sponsored by:

The Foundation for Facial Plastic Surgery

12 Category 1 credits

Contact: www.facialplasticmeetings.com

Pain, Palliation and Politics

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

September 8-9, 2006

San Francisco Airport Marriott

December 1-2, 2006

Disneyland Hotel, Anaheim

Early bird savings until November 1

Sponsored by:

California Medical Association, and
CMA Foundation

14 Category 1 credits

Register at www.cmanet.org, or
Call (415) 882-3330

Diversion Program for Impaired Physicians

by Frank Valine, Program Director

The Physicians Diversion Program is a statewide, highly structured, multifaceted, five-year monitoring and rehabilitation program. The program's mission is to protect the public by supporting and monitoring the recovery of physicians who suffer from substance abuse and mental health-related disorders. The Medical Board of California's Diversion Committee, a standing committee within the board's Division of Medical Quality, oversees the program.

The fundamentals of the program are: 1) public protection; 2) physician rehabilitation into a lifestyle that supports sobriety; 3) strict confidentiality and separation from enforcement activities, giving physicians more incentive to enter the program; and 4) the destruction of records after successful completion, even if the physician was diverted from enforcement or referred as a condition of board-ordered probation.

Some states have laws requiring doctors to report a colleague they suspect of drug or alcohol abuse. But, according to the AMA's Ethics Code, physicians are obligated to report an impaired colleague to the appropriate committee or authority at their hospital, to the state's impaired physician program, or to the Medical Board. That obligation is greater if patients may be endangered. Many doctors go unreported because it is often difficult to identify them and, if identified, harder to convince them they need help. Attempts at persuasion often fail, due to skills at denial, secrecy, and the theory that the doctor must "hit bottom."

Experts in the field agree early intervention for physicians better their chance for recovery. Success in

the treatment of impairment depends on early diagnosis and intervention. We must not wait until an impaired physician has experienced all the possible consequences of his or her illness before making the correct diagnosis and instituting an appropriate referral.

"Within a short time period, and under severe budget constraints, the Medical Board of California management has added staff and made other enhancements to the Diversion Program that have significantly improved its operations," reports Julie D'Angelo Fellmeth, the enforcement monitor who was appointed in 2003 by the Department of Consumer Affairs per SB 231 (Figueroa).

At the annual Federation of State Medical Boards meeting and Federation of State Physician's Health Program held in Boston last April, Dr. J. Edward Hill, president of the American Medical Association, publicly supported that the nation's boards work more closely with respected physician health programs. Forty-six states now have physician health programs.

SB 231, which became law on January 1, 2006, states that the Legislature's intent is for the Bureau of State Audits to complete an audit of the Diversion Program by June 30, 2007. The audit has been approved and is scheduled to begin late 2006. Upon completion, a recommendation will be made on whether the Diversion Program is to continue. With the continuing improvements to the program, the board looks forward to a positive outcome.

Important Information from the California Department of Motor Vehicles

We are pleased to inform the medical community that the Medical Examination Report (DL 51) is now available on the Department of Motor Vehicle's Web site. All commercial drivers must submit medical reports to the department with original license applications, and at least every two years from then on.

You may access the DL 51, (including instructions) by:

- Logging onto the DMV Web site at www.dmv.ca.gov
- Clicking on the "Forms" link (on the left side of the homepage)
- Clicking on the "Driver License and Identification Card" link under the subheading, General Use

- Clicking on the link, "Medical Examination Report (DL 51)"

The Medical Examination Report is in portable document format (PDF). You may enter information on the form and print it while online; however, the information cannot be saved. The department will not accept DL 51 forms that are electronically submitted.

If you do not have access to the Internet, you may visit a Department of Motor Vehicle's field office to pick up a DL 51, or request that we mail the form to you by calling the department's automated phone service (24 hours a day/7 days a week) at (800) 777-0133.

Problem Areas That Physicians Should Avoid

In recent discussions with the board's Consumer Complaint Unit, staff was asked what are the most common consumer complaints about physicians. A few of those problem areas are listed below.

Patient examinations: Numerous complaints received at the board involve physicians who fail to communicate with the patient about what the physician is doing and why during an examination. In some instances, the physician may not have requested that the patient initially undress, but subsequently decides the patient does need to undress for an examination and the physician assists with their undressing or does not leave the room as the patient disrobes. It is unsettling and embarrassing for patients when a physician assists in any way with undressing or even lifting up of clothing. This action can be perceived by a patient as sexual misconduct, especially if a chaperone is not present. Physicians should allow patients to disrobe and dress in private and offer cover gowns and appropriate drapes.

Referral services: The board recently opened a case where numerous physicians were participating in a program in which they paid \$25 for each patient lead received from the program's Internet advertisement. This and similar acts are in violation of California Business and Professions Code section 650: "... the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest, or co-ownership in or with any person to whom these patients, clients, or customers are referred is unlawful." In summary, physicians may not offer or accept anything of value for the referral of patients.

Advertising: Consumer complaints often refer to physician advertising that they believe to be false or misleading. Business and Professions Code section 651 prohibits advertising that does any of the following: 1) "Contains a misrepresentation of fact. 2) Is likely to mislead or deceive because of a failure to disclose material facts. 3) Is intended or is likely to create false or unjustified expectations of favorable results including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised. 4) Use of any photograph or image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model ... For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone

the procedure being advertised, of the licensee who is advertising for his or her services. 5) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient ..."

Although California law authorizes a broad range of advertising, physicians should be mindful of being accurate and honest in representing their practice. For example, physicians should never advertise that they are ABMS certified if they are not.

Fictitious Name Permits: Business and Professions Code section 2285 states, "The use of any fictitious, false, or assumed name, or any name other than his or her own by a licensee either alone, in conjunction with a partnership or group, or as the name of a professional corporation, in any public communication, advertisement, sign, or announcement of his or her practice without a fictitious name permit obtained pursuant to Section 2415 constitutes unprofessional conduct." There has been some confusion in this area. As a reminder, if a physician practices under a name other than his or her own, the law requires the physician to obtain a Fictitious Name Permit from the Medical Board of California. If a physician obtains a Fictitious Name Permit from the local city or county, he or she still must obtain a permit from the board.

It is important for physicians to be familiar with and abide by the laws that regulate the practice of medicine in California.

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

www.caldocinfo.ca.gov

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

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

ADMINISTRATIVE ACTIONS: February 1, 2006 – April 30, 2006

PHYSICIANS AND SURGEONS

ADAMS, RALPH E., M.D. (G7563) Salem, OR

Disciplined by Oregon for making a significant number of errors in interpreting radiology imaging studies and exercising poor judgment by continuing to practice radiology with impaired vision. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, prohibited from practicing medicine until reinstated by the Oregon Board and required to participate in a professional enhancement program. April 10, 2006

AHLES, PETER ALOYS, M.D. (C29552) Anaheim, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, failure to maintain adequate and accurate medical records, and dishonesty or corruption in the care and treatment of 1 patient and violation of state and federal drug statutes by being indicted for knowingly and intentionally dispensing narcotics without a legitimate medical purpose. Surrender of license. February 24, 2006

ALVAREZ, CARLOS A., M.D. (A42986) Bakersfield, CA

Stipulated Decision. No admissions but charged with repeated negligent acts in the care and treatment of 1 patient. Completed a clinical training program. Public Letter of Reprimand. April 13, 2006

AQUINO, SANDRA CADIENTE, M.D. (A80025) Carson, CA

Stipulated Decision. Committed acts of aiding and abetting the unlicensed practice of medicine, altering medical records, making false statements in documents, failing to maintain adequate and accurate medical records, and unprofessional conduct in the care and treatment of 1 patient. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, 30 days actual suspension and completing an ethics course. March 1, 2006

ARONSOHN, RICHARD B., M.D. (C17569) Los Angeles, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, and incompetence in the care and treatment of 2 patients. Must complete a clinical training program, an ethics course, and ordered to pay cost recovery of \$2,000. Public Reprimand. March 6, 2006

BELTRAN, ROBERT RUDY, M.D. (G42093) Irvine, CA

Stipulated Decision. Committed acts of repeated negligence and gross negligence by performing a thigh-lift procedure without informing the patient, by way of consent, that his training was as an ENT surgeon; failing to appropriately treat the post-operative wound complications; and failing to maintain adequate and

Explanation of Disciplinary Language and Actions

“Effective date of decision” —

Example: “March 31, 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.

accurate medical records. Completed a medical record keeping course, a communications course, and paid cost recovery of \$4,000. Public Letter of Reprimand. April 3, 2006

BOYCE, DANIEL JOSEPH, M.D. (A23178)
Orange, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, and incompetence in the care and treatment of 2 patients. Surrender of license. March 2, 2006

BRANDT, SCOTT ALAN, M.D. (G77286)
Aurora, CO

Stipulated Decision. Disciplined by Colorado for self-abuse of controlled substances. Surrender of license. March 17, 2006

CHEIN, EDMUND, M.D. (A38678)
Palm Springs, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, failure to maintain adequate and accurate medical records, and prescribing without a good faith prior exam or medical indication in the care and treatment of 2 patients; engaging in the unlicensed practice of medicine, dishonesty, obtaining and dispensing controlled substances unlawfully, violated drug statutes, and failing to maintain adequate and accurate records of controlled substances. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, complete a prescribing practices course, a medical record keeping course, and an ethics course; obtain a practice monitor; maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed, and any recommendation or approval for marijuana; review no less than 90% of all charts of his employee-physicians; prohibited from posting on the Internet any pre-signed forms or other forms that could be used to obtain laboratory testing and from posting any misleading statement related to the practice of medicine; and ordered to pay cost recovery of \$10,000. March 16, 2006

CLYMAN, JEFFREY IRA, M.D. (G85555)
Reston, VA

Stipulated Decision. No admissions but charged with repeated negligent acts and excessive prescribing in the care and treatment of 2 patients. Must complete an educational course in basic internal medicine in addition to required CME and a medical record keeping course. Public Reprimand. February 6, 2006

COTTON, SAMUEL L., M.D. (A21395)
Los Angeles, CA

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 3 patients and gross negligence in

the care and treatment of 1 patient. Surrender of license. February 24, 2006

DAO, ANH DUY, M.D. (A42378)
Elizabethtown, KY

Disciplined by Kentucky for conviction of 6 felony counts of obtaining controlled substances by fraud and deceit. Revoked. March 27, 2006

DECHERNEY, ALAN HERSH, M.D. (G83312)
Los Angeles, CA

Stipulated Decision. Committed acts of unprofessional conduct by failing to inform a patient that a pathology report did not confirm the operative finding of a uterine fibroid and failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Completed a medical record keeping course. Public Letter of Reprimand. March 6, 2006

DICARLO, GREGORY PAUL, M.D. (G38130)
Merced, CA

Stipulated Decision. Committed acts of unprofessional conduct by engaging in sexualized and inappropriate behavior with female medical staff. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing a professional boundaries program. April 28, 2006

EISENSTEIN, ISAAC, M.D. (A31303)
Lakewood, CA

Committed acts of repeated negligence, gross negligence and failed to maintain adequate and accurate medical records in the care and treatment of multiple patients. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, completing a medical record keeping course, obtaining a medical records practice monitor, and ordered to pay cost recovery of \$4,000. February 6, 2006. Judicial review pending.

EMERSON, ERIC TOMSON, M.D. (G82001)
Gastonia, NC

Stipulated Decision. Disciplined by North Carolina for using a non-FDA approved drug and using a consent form that stated the drug had been proven safe in clinical trials. Public Letter of Reprimand. February 14, 2006

FLAGG, GWENERVERE LOUISE, M.D. (G42472)
Los Angeles, CA

Stipulated Decision. No admissions but charged with violating the terms and conditions of her board-ordered probation by failing to enroll in a clinical training program in a timely manner and failing to obtain a practice monitor. Suspended from the practice of medicine until successful completion of the clinical training program. All terms and conditions of the prior disciplinary order remain in effect. February 23, 2006

GOETZ, BERNARD, M.D. (A36006)
Los Angeles, CA

Stipulated Decision. No admissions but charged with incompetence for failing to successfully complete a clinical training program and violating several other terms and conditions of his board-ordered probation. Surrender of license. March 24, 2006

GRAHAM, GEOFFREY LEE, M.D. (G39820)
Thousand Oaks, CA

Stipulated Decision. No admissions but charged with gross negligence in the care and treatment of 1 patient. Completed a clinical training program and paid cost recovery of \$2,000. Public Letter of Reprimand. February 21, 2006

HAMZA, MOHSEN M., M.D. (A43543)
West Los Angeles, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, failure to maintain adequate and accurate medical records, excessive treatment or prescribing, and unprofessional conduct in the care and treatment of multiple patients. Revoked, stayed, placed on 4 years probation with terms and conditions including, but not limited to, completing a clinical training program and obtaining a practice monitor. March 29, 2006

HERR, NICHOLAS GEORGE, M.D. (CFE35276)
Burbank, CA

Physician has a condition affecting his ability to practice medicine safely. Revoked. March 30, 2006

HOCHBERG, RICHARD ALAN, M.D. (G24647)
Long Beach, CA

Stipulated Decision. Failed to maintain adequate and accurate medical records in the care and treatment of multiple patients. Completed a medical record keeping course and paid cost recovery of \$4,000. Public Reprimand. February 21, 2006

KEENE, DAVID HAL, M.D. (G51024)
Beverly Hills, CA

Stipulated Decision. Failed to maintain adequate and accurate medical records by not documenting discussions with an infant's parents concerning an observed jaundice condition or a timely follow-up appointment. Public Letter of Reprimand. April 26, 2006

KURIAN, LEONARD SUNIL, M.D. (G70489)
Lancaster, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, failure to maintain adequate and accurate medical records, and dishonesty in the care and treatment of 1 patient. Must complete a clinical training program, a medical record keeping course, an ethics course, and ordered to pay cost recovery of \$2,000. Public Reprimand. March 2, 2006

LAM, JACINTO, M.D. (A39722)
Los Angeles, CA

Stipulated Decision. Committed acts of gross negligence, incompetence, dishonesty or corruption, failing to maintain adequate and accurate medical records, making false statements in records, and altering 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 medical record keeping course and an ethics course. April 3, 2006

LEMON, ROBERT HUGH, M.D. (G61547)
Rancho Mirage, CA

Stipulated Decision. Committed acts of repeated negligence by failing to monitor a patient's coumadin level after the patient suffered an episode of bleeding and not monitoring the patient until a hospital bed was available. Public Letter of Reprimand. March 7, 2006

LIM, JOHN C., M.D. (G52785)
Torrance, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, and failure to maintain adequate and accurate medical records in the care and treatment of 1 patient. Physician completed a medical record keeping course and must complete educational courses in pelvic floor disorders, complications of gynecological surgery, and clinical obstetrics and gynecology. Public Reprimand. February 14, 2006

MANZUR, JUAN ESBER, M.D. (G59934)
Las Vegas, NV

Disciplined by Nevada for being convicted of numerous felonies, including first degree kidnapping, battery and assault with a deadly weapon, and felony child abuse and neglect. Revoked. March 6, 2006

MCMURTRY, JAMES G., III, M.D. (C24488)
New York, NY

Stipulated Decision. Disciplined by New York for failing to maintain adequate and accurate medical records. Surrender of license. February 14, 2006

MOORE, BARBARA E., M.D. (A22449)
Oakland, CA

Stipulated Decision. No admissions but charged with repeated negligent acts and gross negligence in the care and treatment of 1 patient. Public Reprimand. March 3, 2006

MORALES, CARMEN NEREIDA, M.D. (A94030)
Harbor City, CA

Stipulated Decision. Failed to disclose a previous felony conviction of grand theft on her application for medical licensure. Probationary license issued, placed on 5 years probation with terms and conditions including, but not limited to, providing 120 hours of free, non-medical

community service; and completing an ethics course. Decision effective December 30, 2005, probationary license issued February 10, 2006.

NEWMAN, ILENE, M.D. (G54610)
San Jose, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, and incompetence in the care and treatment of 1 patient. Revoked, stayed, placed on 2 years probation with terms and conditions including, but not limited to, completing a clinical training program. February 21, 2006

NGUYEN, LI QUANG, M.D. (G63837)
Westminster, CA

Stipulated Decision. Committed gross negligence in the care and treatment of 1 patient. Physician completed an endoscopic sinus surgery mini-fellowship and paid cost recovery of \$2,325. Public Reprimand. March 15, 2006

NORMAN, KIM PETER, M.D. (G38100)
San Francisco, CA

Stipulated Decision. Failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Public Letter of Reprimand. February 24, 2006

NORTON, JANE ESPEJO, M.D. (G34784)
Palm Desert, CA

Stipulated Decision. Convicted of 2 misdemeanor charges of fraud. Surrender of license. February 24, 2006

OMAR, AKBAR, M.D. (A32838)
West Covina, CA

Stipulated Decision. Practiced without a fictitious name permit. Must complete a medical record keeping course and an ethics course. Public Reprimand. March 30, 2006

PANNER, OWEN MURPHY, JR., M.D. (G45866)
Alturas, CA

Stipulated Decision. Committed acts of unprofessional conduct and convicted of 2 misdemeanor charges of secretly videotaping 2 female patients. Surrender of license. April 28, 2006

PATEL, SUNIL J., M.D. (A52005)
Alta Loma, CA

Stipulated Decision. Committed acts of repeated negligence and failed to maintain adequate and accurate medical records in the care and treatment of 2 patients and committed acts of gross negligence and incompetence in the care and treatment of 1 patient. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing a clinical training program, an educational course in addition to required CME, a medical record keeping course, an ethics course, and obtaining a practice monitor. November 8, 2005

PERLMAN, SUSAN LEE, M.D. (G31939)
Los Angeles, CA

Stipulated Decision. Failed to maintain adequate and accurate medical records and prescribed without a good faith examination or medical indication in the care and treatment of 1 patient. Completed a medical record keeping course, a prescribing practices course, and paid cost recovery of \$4,000. Public Reprimand. February 27, 2006

RASMUSSEN, CHRISTOPHER JAMES, M.D. (G63075)
San Jose, CA

Stipulated Decision. Disciplined by Wisconsin for unprofessional conduct due to his decision to move to California and discontinue Wisconsin's probationary requirements. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, passing an oral and/or written examination; obtaining a practice monitor; prohibited from the solo practice of medicine; prohibited from prescribing, dispensing, administering or possessing any controlled substances, except those in Schedules IV or V, or any recommendation or approval for marijuana; maintaining a record of all controlled substances ordered, prescribed, dispensed, administered or possessed; abstaining from the personal use or possession of controlled substances and alcohol; submitting to biological fluid testing; and completing the Diversion Program. April 17, 2006

RIDER, RICHARD D., M.D. (C16851)
San Francisco, CA

Stipulated Decision. Failed to follow standard protocol for prescribing drugs and failed to maintain adequate and accurate medical records. Public Letter of Reprimand. April 24, 2006

ROSTAMI, MIKE MANSOUR, M.D. (A50108)
Los Angeles, CA

Stipulated Decision. Failed to maintain adequate and accurate medical records in the care and treatment of 6 patients. Revoked, stayed, placed on 35 months probation with terms and conditions including, but not limited to, completing a clinical training program and obtaining a practice monitor. March 17, 2006

SAMI, IQBAL M., M.D. (A30495)
Irvine, CA

Stipulated Decision. Committed acts of repeated negligence in the care and treatment of 1 patient. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, completing a clinical training program and a medical record keeping course, obtaining a practice monitor, prohibited from performing neck or back surgery until physician successfully completes the clinical training program, and ordered to pay cost recovery of \$3,000. March 17, 2006

SHAHANGIAN, SHAHRIAR, M.D. (A67216)
La Canada, CA

Stipulated Decision. Failed to maintain adequate and accurate medical records and committed unprofessional conduct 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 a clinical training program. April 10, 2006

SHOUSE, MARCUS DILLARD, M.D. (A32941)
Mariposa, CA

Stipulated Decision. No admissions but charged with the self-use and administration of a controlled substance and termination from the Diversion Program. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, surrender of DEA permit; prohibited from ordering, prescribing, dispensing, administering, or possessing any controlled substances or any recommendation or approval for marijuana until approval is provided by the board; upon restoration of prescribing privileges, required to maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed, and any recommendation or approval for marijuana; abstaining from the personal use or possession of controlled substances and alcohol; submitting to biological fluid testing; and completing the Diversion Program. February 27, 2006

SILVER, RICHARD A., M.D. (G13782)
Sun Valley, ID

Stipulated Decision. Disciplined by Arizona for deviating from the standard of care when performing a closed reduction and casting of a patient's arm. Public Letter of Reprimand. February 27, 2006

STANICH, MILES VINCENT, M.D. (G24707)
San Diego, CA

Stipulated Decision. Failed to maintain adequate and accurate medical records and excessively prescribed in the care and treatment of 3 patients. Revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, completing a prescribing practices course, a medical record keeping course, an educational course in addition to required CME, and obtaining a billing/practice monitor. March 20, 2006

STIERS, WILLIAM JEFFORD, M.D. (G42398)
Pleasanton, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, unprofessional conduct, dishonesty or corruption, and sexual misconduct with a patient in the care and treatment of 2 patients. Surrender of license. April 3, 2006

SWANSON, CRAIG EDWARD, M.D. (A41844)
Crescent City, CA

Violated the terms and conditions of his board-ordered probation by being convicted of a felony for illegal

remuneration and committing acts of dishonesty or corruption. Revoked. April 26, 2006

TATOYAN, KRIKOR BAGHDASSAR, M.D. (C43149)
Tarzana, CA

Stipulated Decision. Committed acts of gross negligence in the care and treatment of 1 patient and performed surgery in an unaccredited, uncertified, unlicensed outpatient surgery center. Revoked, stayed, placed on 7 years probation with terms and conditions including, but not limited to, 30 days actual suspension, completing an educational course in addition to required CME, a medical record keeping course, an ethics course, and obtaining a practice monitor. March 23, 2006

TAWAKOL, RAIF, M.D. (C40824)
Merced, CA

Stipulated Decision. Committed acts of repeated negligence and gross negligence, made false statements in the medical records, and failed to maintain adequate and accurate medical records 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, a medical record keeping course, and an ethics course. April 3, 2006

TORREY, ROBERT R., SR., M.D. (A12153)
Pasadena, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, failure to maintain adequate and accurate medical records, and excessive prescribing in the care and treatment of 2 patients. Surrender of license. March 6, 2006

TRAN, TAN D., M.D. (G7901)
Anaheim, CA

Stipulated Decision. No admissions but charged with gross negligence and incompetence in the care and treatment of 1 patient. Must complete a clinical training program. Public Reprimand. March 27, 2006

UPADHYAYA, GARGI H., M.D. (A49787)
Pasadena, CA

Stipulated Decision. Failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Must complete a clinical training program, a medical record keeping course, and ordered to pay cost recovery of \$10,000. Public Reprimand. April 7, 2006

VAN DYKE, SUSAN BRUNNER, M.D. (G85419)
Paradise Valley, AZ

Stipulated Decision. Disciplined by Arizona for self-abuse of controlled substances/alcohol. Surrender of license. March 6, 2006

VANDERWEKEN, DUANE W., M.D. (A20386)
Cloverdale, CA

Stipulated Decision. Failed to maintain adequate and accurate medical records in the care and treatment of 1 patient. Completed a clinical training program. Public Reprimand. March 28, 2006

VAUGHAN, KAREL DOUGLAS, M.D. (A50336)
Westlake Village, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, failure to maintain adequate and accurate medical records, and excessive prescribing in the care and treatment of 1 patient. Must complete a prescribing practices course and a medical record keeping course. Public Letter of Reprimand. April 17, 2006

VIZCARRA, MICHAEL CARL, M.D. (G29952)
Hesperia, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, and failure to maintain adequate and accurate medical records in the care and treatment of 1 patient. Completed a clinical training program, a medical record keeping course, and paid cost recovery of \$7,500. Public Letter of Reprimand. March 9, 2006

WESTFIELD, KENNETH CECIL, M.D. (G39544)
Las Vegas, NV

Disciplined by Arizona for conduct which was below the standard of care while treating a patient. Paid cost recovery of \$1,536. Public Reprimand. February 7, 2006

WHITING, GARY W., M.D. (G58809)
Sacramento, CA

Stipulated Decision. Committed acts of unprofessional conduct in the care and treatment of 2 patients. Public Letter of Reprimand. April 6, 2006

YOON, BYONG IN, M.D. (A32423)
Temple City, CA

Stipulated Decision. No admissions but charged with repeated negligent acts 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 medical record keeping course. April 28, 2006

ZIOMEK, JOHN JOSEF, M.D. (A43534)
San Clemente, CA

Stipulated Decision. No admissions but charged with repeated negligent acts, gross negligence, incompetence, and failure to maintain adequate and accurate medical records in the care and treatment of 1 patient. Must complete a clinical training program and ordered to pay cost recovery of \$5,000. Public Reprimand. February 27, 2006

PHYSICIAN ASSISTANTS

BACON, TRACY D., P.A. (PA15961)
Vista, CA

Stipulated Decision. Convicted of 2 misdemeanor charges for driving under the influence of alcohol/drugs and being under the influence of a controlled substance. Surrender of license. March 21, 2006

HALL, THOMAS OWEN, P.A. (PA15462)
Redding, CA

Committed acts of unprofessional conduct and dishonesty by making false statements on his application for licensure. Revoked. April 24, 2006

LE, TUAN MANH, P.A. (PA15503)
San Diego, CA

Stipulated Decision. Committed acts of repeated negligence, gross negligence, incompetence, failure to maintain adequate and accurate medical records, excessive prescribing, and prescribing without a good faith examination or medical indication in the care and treatment of 3 patients. Revoked, stayed, placed on 5 years probation with terms and conditions including, but not limited to, obtaining a practice monitor, required review of all medical records by his supervising physician, completing a clinical training program, and ordered to pay cost recovery of \$3,750. February 23, 2006

LEE, JOANNA S., P.A. (PA15912)
Walnut, CA

Stipulated Decision. No admissions but charged with repeated negligent acts and incompetence in the care and treatment of 12 patients. Must complete a medical record keeping course and ordered to pay cost recovery of \$3,550. Public Letter of Reprimand. April 24, 2006

ROBERTS, WILLIAM ALTON, JR., P.A. (PA15005)
Avenal, CA

Disciplined by Arizona for dishonesty and making false statements on an application for licensure and failed to comply with the terms and conditions of his board-ordered probation. Revoked. April 19, 2006

VANDERSLIK, ANGELA KATRIN, P.A. (PA18397)
Visalia, CA

Stipulated Decision. Committed acts of dishonesty by providing false documentation and information to an investigator. License issued, revoked, stayed, placed on 3 years probation with terms and conditions including, but not limited to, obtaining a supervising physician, required to have on-site supervision at all times and completing an ethics course. Decision effective April 5, 2006, license issued April 12, 2006.

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ACTION REPORT — JULY 2006
Candis Cohen, Editor (916) 263-2389

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