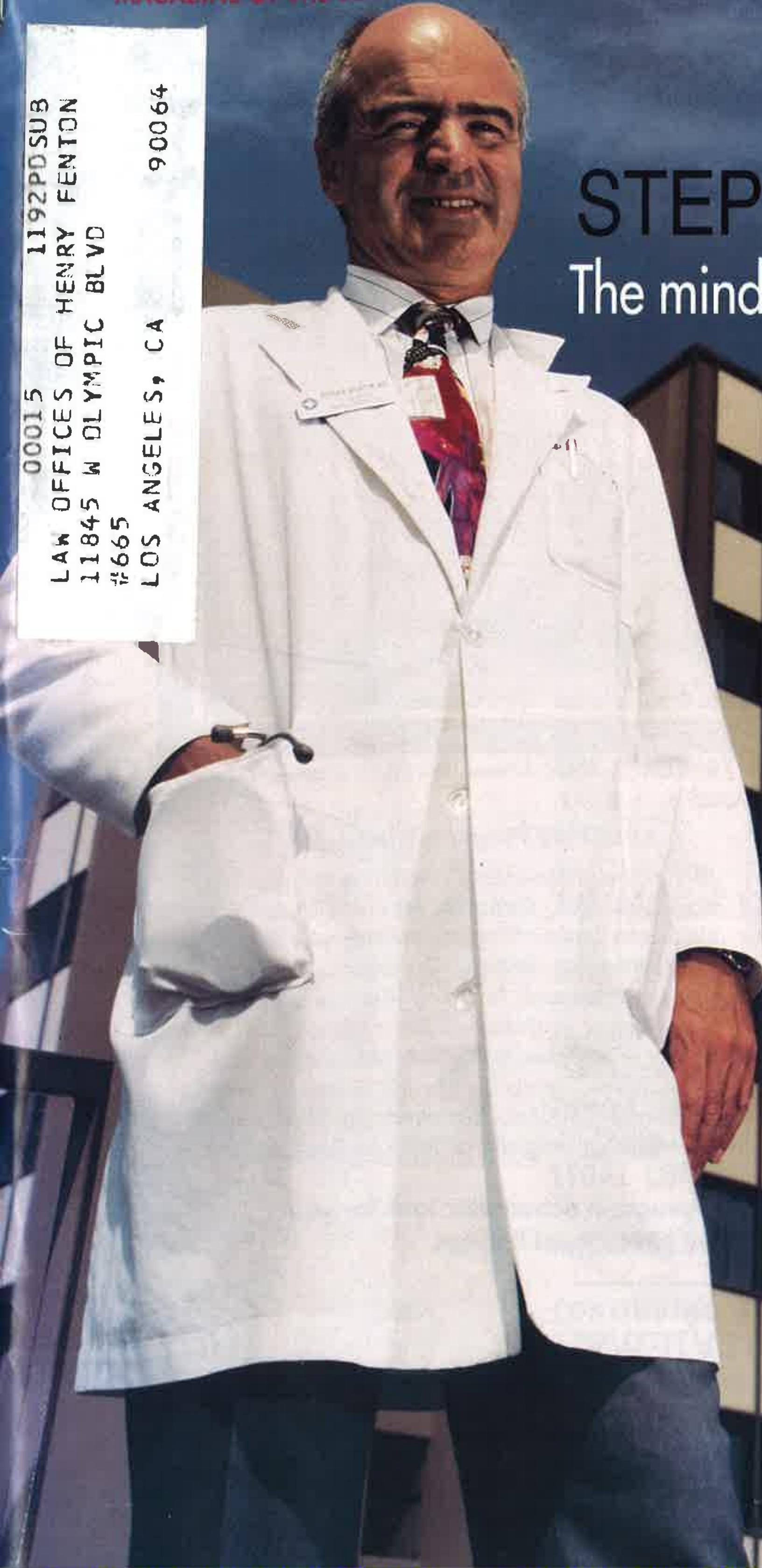
LACMA

PHYSICIAN

MAGAZINE OF THE LOS ANGELES COUNTY MEDICAL ASSOCIATION

AUGUST 17, 1992

00015 1192PDSUB
LAW OFFICES OF HENRY FENTON
11845 W OLYMPIC BLVD
#665
LOS ANGELES, CA 90064



STEPHEN BRUNTON MD:

The mind behind Long Beach Memorial's unusual family practice residency program

HENRY FENTON JD

Physicians *Can* Beat the Big Insurers

Too often physicians find themselves helpless at the mercy of large insurance companies that control the purse strings to the payment for medical services that have been rendered. When treated unfairly, the average physician will simply acquiesce to the decision made by the insurance company because it seems excessively difficult and even hopeless to dispute the carrier's determination.

A dermatologist who practices in the Los Angeles area recently was confronted by such a situation and was unwilling to let a large insurance company get away with it.

Dr. H had been party to a participating physician agreement for a period of three years without encountering any unusual problems. Then one day the insurance carrier requested a copy of his office records as a condition of paying for an office visit and for a procedure performed by Dr. H during that visit. But that wasn't all. From then on, with respect to virtually each claim presented by Dr. H to this carrier for services performed in his office, it requested a copy of Dr. H's records.

This was no small task. In addition to the time spent by his office manager in complying with these requests, Dr. H himself personally reviewed each chart about which there was an inquiry so that confidential information protected by his patients' rights of privacy and information not pertinent to the claim was not divulged to the insurance company.

...[T]he insurance company was insatiable. Month after month, it continued to request records in every case

For example, Dr. H was very careful to be sure that no information was provided to the carrier in violation of the law regarding the confidentiality of HIV test results. This required Dr. H to prepare reports to submit that otherwise would not have been necessary.

In the first few weeks that these requests were made, Dr. H would simply do the necessary work and furnish the records. He hoped that this was a temporary phase and that after a review of a few records, the insurance company would stop asking for them. To Dr. H's dismay, however, the insurance company was insatiable. Month after month, it continued to request records in every case. Moreover, a substantial percentage of Dr. H's patients were subscribers with the insurance company. Therefore, it was essential to the well-being of Dr. H's practice to cooperate fully with the requests of the insurance company.

What was also frustrating to Dr. H was that there seemed to be no logical reasons for these continued demands by the insurance carrier for records. All of his claims to the carrier basically concerned the same five or six CPT codes, and in 99% of the cases, each of the claims was paid after the documentation was submitted to the insurance company. He was merely told that his coding "was not in line with the medical community."

Dr. H made various informal attempts to convince the insurance company to stop requesting the records — all to no avail. More than a year after the practice of requesting records began, he and his office

Physician Leaders

Los Angeles and Orange Counties

CIGNA Healthplans of CA is accepting curricula vitae for the position of Chief of Staff for several Health Care Centers which are part of CIGNA's 350,000 member Health Maintenance Organization.

The Chief of Staff is the senior manager and leader of the Center and has clinical as well as management responsibilities. Board Certification and CA licensure are required.

If you are challenged by change and wish to be a leader in the transformation of the health care delivery system, CIGNA may be the place for you.

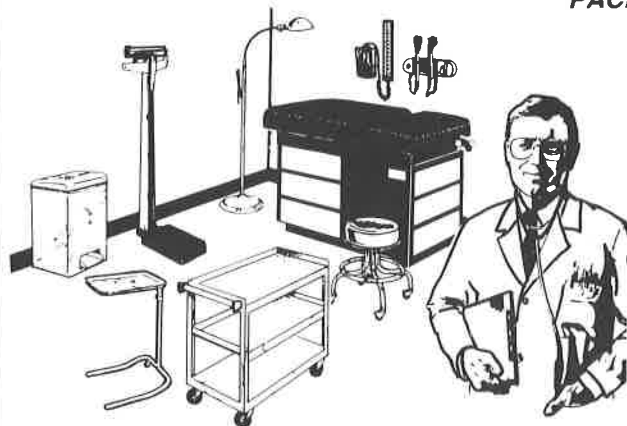
Excellent financial and benefit package with potential for further management development.

Contact: **Director, Professional Recruitment**
CIGNA Healthplans of CA
505 N. Brand Blvd., Suite 400-30P
Glendale, CA 91203
Phone: 800-468-9013
Fax: 818-500-6986
EOE

CIGNA Healthplan
Team with results.SM

LEASE OR BUY A COMPLETE GENERAL PRACTICE SET-UP NOW!

PACKAGE INCLUDES:



- 1-Hamilton exam table
- 1-Physician scale
- 1-Goose-neck lamp
- 1-Lakeside 3-level cart
- 1-Diagnostic unit with wall mount
- 1-Mayo tray
- 1-Revolving stool
- 1-Wall-mounted blood pressure unit
- 1-Stainless trash can

$2200.00

WE SPECIALIZE IN:

• Medical Equipment • X-Ray Equipment
• Office Furniture • Physical Therapy Equipment

QUICKMED Call Us For a Price Quote 1-213-259-1000

manager attended a meeting at the offices of the insurance carrier. An insurance company representative and an insurance company medical consultant were also present. At that meeting, Dr. H pointed out that for years before the records requests came in, his claims had been paid without incident. He further pointed out that his claims continued to be paid after the documentation was submitted and that there was no purpose (other than to needlessly burden his office) to submitting the documentation in each case.

Again, he was told that the records were requested because his coding "was not in line with the medical community." Further, he was informed that the insurance company would insist upon the documentation in each case for as long as it pleased because it had a legal right to do so.

For Dr. H, that was the last straw. He decided that he would pursue whatever legal remedies were available to him. Pursuant to the provider agreement with the insurance carrier, his remedies were limited to arbitration; therefore, he requested arbitration.

In the arbitration, Dr. H demanded payment for the records he had been required to produce. He requested $30 for each instance his office had provided records.

In pursuing his case against the insurance company, Dr. H concentrated on the terms of the participating physician agreement itself. First, one section of the agreement did require participating providers to furnish necessary information "reasonably required" by the insurance carrier. The evidence presented at the arbitration showed that in each and every case Dr. H was required to present the same records with respect to the same procedures time and time again. In more than 99% of the cases, he was paid for all services that he billed. There was no proof, therefore, that the information requested was reasonably required.

Additionally, another portion of the agreement provided that it was the obligation of the physician to make records available when necessary and upon reasonable notice, for "review and duplication" by the insurance carrier.

On behalf of Dr. H, this author contended that this showed that while it was the obligation of the physician to make records available, the responsibility under the terms of the agreement to actually duplicate the records was upon the insurance carrier. This established that the agreement's intent was for the physician to make the medical records available but that the costs of providing or producing the records was to be borne by the insurance carrier.

The ambiguity in the contract worked in favor of Dr. H's case — for two reasons: First, it is a well-established principle of law that ambiguities in an agreement are construed against the party that wrote the agreement and in favor of the other party. Second, it was argued on behalf of Dr. H that the physician had no opportunity to negotiate this agreement; in reality it was an "adhesion contract" and, therefore, it was particularly important that any uncertainty be construed in favor of the physician.

The happy ending to this story is that the arbitrator agreed with the points made by Dr. H and awarded him $30 for each time records had been provided.

The arbitrator rejected the arguments of the insurance carrier that it was not required to pay anything since there was nothing specifically in the agreement that required payment for the records that were required.

Dr. H hopes that his victory will persuade the insurance carrier to cease its practice of needlessly insisting upon the submission of medical records as a condition of paying him for his medical services. LP

Henry Fenton JD, an attorney in West Los Angeles, specializes in the representation of physicians.

YOCON®

YOHIMBINE HCl

Description: Yohimbine is a 3a-15a-20B-17a-hydroxy Yohimbine-16a-carboxylic acid methyl ester. The alkaloid is found in Rubaceae and related trees. Also in Rauwolfia Serpentina (L) Benth. Yohimbine is an indolalkylamine alkaloid with chemical similarity to reserpine. It is a crystalline powder, odorless. Each compressed tablet contains (1/12 gr.) 5.4 mg of Yohimbine Hydrochloride.

Action: Yohimbine blocks presynaptic alpha-2 adrenergic receptors. Its action on peripheral blood vessels resembles that of reserpine, though it is weaker and of short duration. Yohimbine's peripheral autonomic nervous system effect is to increase parasympathetic (cholinergic) and decrease sympathetic (adrenergic) activity. It is to be noted that in male sexual performance, erection is linked to cholinergic activity and to alpha-2 adrenergic blockade which may theoretically result in increased penile inflow, decreased penile outflow or both.

Yohimbine exerts a stimulating action on the mood and may increase anxiety. Such actions have not been adequately studied or related to dosage although they appear to require high doses of the drug. Yohimbine has a mild anti-diuretic action, probably via stimulation of hypothalmic centers and release of posterior pituitary hormone.

Reportedly, Yohimbine exerts no significant influence on cardiac stimulation and other effects mediated by B-adrenergic receptors, its effect on blood pressure, if any, would be to lower it; however no adequate studies are at hand to quantitate this effect in terms of Yohimbine dosage.

Indications: Yocon® is indicated as a sympathicolytic and mydriatric. It may have activity as an aphrodisiac.

Contraindications: Renal diseases, and patient's sensitive to the drug. In view of the limited and inadequate information at hand, no precise tabulation can be offered of additional contraindications.

Warning: Generally, this drug is not proposed for use in females and certainly must not be used during pregnancy. Neither is this drug proposed for use in pediatric, geriatric or cardio-renal patients with gastric or duodenal ulcer history. Nor should it be used in conjunction with mood-modifying drugs such as antidepressants, or in psychiatric patients in general.

Adverse Reactions: Yohimbine readily penetrates the (CNS) and produces a complex pattern of responses in lower doses than required to produce peripheral a-adrenergic blockade. These include, anti-diuresis, a general picture of central excitation including elevation of blood pressure and heart rate, increased motor activity, irritability and tremor. Sweating, nausea and vomiting are common after parenteral administration of the drug.[1,2] Also dizziness, headache, skin flushing reported when used orally.[1,3]

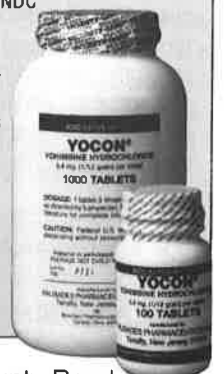
Dosage and Administration: Experimental dosage reported in treatment of erectile impotence.[1,3,4] 1 tablet (5.4 mg) 3 times a day, to adult males taken orally. Occasional side effects reported with this dosage are nausea, dizziness or nervousness. In the event of side effects dosage to be reduced to ½ tablet 3 times a day, followed by gradual increases to 1 tablet 3 times a day. Reported therapy not more than 10 weeks.[3]

How Supplied: Oral tablets of Yocon® 1/12 gr. 5.4 mg in bottles of 100's NDC 53159-001-01 and 1000's NDC 53159-001-10.

References:

1. A. Morales et al., New England Journal of Medicine: 1221. November 12, 1981.
2. Goodman, Gilman — The Pharmacological basis of Therapeutics 6th ed., p. 176-188. McMillan December Rev. 1/85.
3. Weekly Urological Clinical letter, 27:2, July 4, 1983.
4. A. Morales et al., The Journal of Urology 128: 45-47, 1982.

Rev. 1/85



AVAILABLE AT PHARMACIES NATIONWIDE
PALISADES PHARMACEUTICALS, INC.
219 County Road
Tenafly, New Jersey 07670
(201) 569-8502 1-800-237-9083