MEDICAL BOARD OF CALIFORNIA
Executive Office

DISCIPLINARY GUIDELINES
INTERESTED PARTIES WORKSHOP

June 18, 2009

Medical Board of California
Hearing Room
2005 Evergreen Street
Sacramento, CA 95815
(916) 263-2389

MINUTES

Agenda Item 1 Welcome and Introductions

Ms. Kirchmeyer welcomed everyone to the workshop and asked individuals to introduce themselves and state which organization they represented.

Members Present:

Barbara Yaroslavsky, President
Hedy Chang
Janet Solomonson, M.D.

Staff Present:

Barb Johnston, Executive Director
Kimberly Kirchmeyer, Deputy Director
Renee Threadgill, Chief of Enforcement
Kathi Burns, Staff Services Manager I
Susan Cady, Staff Services Manager II
Janie Cordray, Research Program Specialist II
Catherine Hayes, Staff Services Manager I
Ross Locke, Business Services Assistant
Paulette Romero, Associate Analyst
Anita Scuri, Supervising Legal Counsel

Members of the Audience:

Duane Bradley, Blue Shield of California
Frank Cuny, California Citizens for Health Freedom
Julia Canzini, Blue Shield of California
Yvonne Choong, California Medical Association
Zennie Coughlin, Kaiser Permanente
Norma Hudson, North Bay Healthcare Medical Staff
Raymond McMahon, Bonne, Bridges, Mueller, O'Keefe & Nichols
Jim Rathlesberger, Board of Podiatric Medicine
John P. Toth, M.D., California Citizens for Health Freedom

Agenda Item 2 Overview of Disciplinary Guidelines - Adoption of Regulations

Ms. Kirchmeyer advised the audience that both changed and unchanged conditions were included in the hand out in order for audience members to offer suggestions to any sections.

Agenda Item 3 Discussion of proposed Disciplinary Guidelines - Open Discussion

Condition No. 4 was not discussed as no changes were made nor suggested.

Condition No. 5 was discussed. Mr. McMahon questioned the use of the word "prior" in the phrase "an inappropriate prior examination". Ms. Kirchmeyer advised this wording was taken directly from Business and Professions Code section 2242.

Condition No. 6 was not discussed as no changes were made nor suggested.

Condition No. 7 was not discussed as no issues were brought forward.

Condition No. 8 was discussed. Ms. Yaroslavsky questioned deleting the verbiage included in this condition. Ms. Cady advised the verbiage is included in Condition No. 36 and is therefore duplicative in this condition.

Condition No. 9 was discussed. The term "shall be suspended and shall cease the practice of medicine" was removed from the last paragraph and replaced with "shall receive a notification to cease practice". The language will be amended to remove the word "suspension" from the condition. Mr. McMahon asked the Board to create a time frame for an accusation to be filed after a respondent has a positive biological fluid test and has been removed from practice. Discussion ensued as to the time frame a physician must cease practice. Staff stated they would review the Administrative Procedure Act and draft language similar to the language for an Interim Suspension Order.

Condition No. 10 was discussed. The term "shall be suspended and shall cease the practice of medicine" was removed from the last paragraph and replaced with "shall receive a notification to cease practice". The language will be amended to remove the word "suspension" from the condition. In addition, the language from Condition No. 9 regarding a time frame will be included here.

Condition No. 11 was discussed. The term "drug screening program" was replaced with "similar drug screening". The term "shall immediately cease practice upon notification" was removed from the last paragraph and replaced with "shall receive a notification to cease practice".

Condition No. 12 was not discussed as no issues were brought forward.

Condition No. 13 was not discussed as no issues were brought forward.

Condition No. 14 was discussed. Mr. McMahon questioned the use of the term "equivalency" but no changes were made. Yvonne Choong asked for a hand out on criteria staff will be evaluating for equivalency. Staff said they would work on this for distribution.

Condition No. 15 was not discussed as no issues were brought forward.

Condition No. 16 was not discussed as no issues were brought forward.

Condition No. 17 was not discussed as no issues were brought forward.

Condition No. 18 was not discussed as no issues were brought forward.

Condition No. 19 was discussed. Mr. McMahon recommended the word "successfully" be added to the last sentence of the first paragraph. In the "Note", the term "shall immediately cease practice upon notification" was removed and replaced with "shall receive a notification to cease practice".

Condition No. 20 was discussed. In the "Note", the term "shall immediately cease practice upon notification" was removed and replaced with "shall receive a notification to cease practice". The language will be amended to remove the word "suspension" from the condition.

Condition No. 21 was not discussed as no issues were brought forward.

Condition No. 22 was not discussed as no issues were brought forward.

Condition No. 23 was not discussed as no issues were brought forward.

Condition No. 24 was not discussed as no issues were brought forward.

Condition No. 25 was discussed. It was suggested the definition of "no solo practice" be identified. Ms. Scuri suggested the following new language: "Respondent is prohibited from engaging in the solo practice of medicine. Solo practice includes, but is not limited to, a practice where: 1) physicians merely share office space but are not affiliated for purposes of providing patient care, or 2) Respondent would be the sole physician practitioner at that location."

Condition No. 26 was discussed. Mr. McMahon had concerns about patient confidentiality with regard to Respondents releasing logs containing patients' names, addresses, etc. Language was changed to allow Respondents to use patient medical record numbers and initials on logs. It was agreed that the inclusion of addresses and phone numbers on logs was acceptable in the event it was necessary for the Board to contact a patient.

Condition No. 27 was not discussed as no issues were brought forward.

Condition No. 28 was not discussed as no issues were brought forward.

Condition No. 29 was not discussed as no changes were made nor suggested.

Condition No. 30 was not discussed as no changes were made nor suggested.

Condition No. 31 was not discussed as no changes were made nor suggested.

Condition No. 32 was discussed. Mr. McMahon expressed concern about Respondents being required to provide multiple telephone numbers and an email address. It was agreed that the "s" in "numbers" would be removed and Respondents would only be required to provide one active telephone number. It was also agreed to place "if available" in parenthesis after "email address". In the "Place of Practice" paragraph, Mr. McMahon questioned the limitations on where Respondents can engage in the practice of medicine. He felt that the "skilled nursing facility" exception was too narrow. It was agreed to add "or similar licensed facility" to the end of the sentence.

Condition No. 33 was not discussed as no issues were brought forward.

Condition No. 34 was discussed. In the first sentence of the second paragraph, it was agreed to change the term "18 months" to "18 calendar months".

Condition No. 35 was not discussed as no issues were brought forward.

Condition No. 36 was not discussed as no changes were made nor suggested.

Condition No. 37 was discussed. The term "Nor shall" was removed from the fourth sentence. In addition, it was agreed to return the remainder of the sentence to its original format and now state "Respondent will no longer be subjected".

Condition No. 38 was not discussed as no issues were brought forward.

Agenda Item 4 Next Steps

Ms. Kirchmeyer advised those in attendance that staff would make the edits talked about in the workshop and indicated Ms. Threadgill would give an update at the July Board Meeting. Ms. Kirchmeyer also stated the Board has already been asked to set this for hearing, which will occur at the November Board Meeting.

Agenda Item 5 Adjournment

There being no further business, the meeting was adjourned.