July 23 - 24, 2009

Quarterly Board Meeting

Medical Board of California
2005 Evergreen Street, Hearing Room
Sacramento, CA 95815

MEDICAL BOARD OF CALIFORNIA
Executive Office

MEMBERS OF THE BOARD
Barbara Yaroslavsky, President
Frank V. Zerunyan, J.D., Vice President
Hedy Chang, Secretary
Jorge Carreon, M.D.
John Chin, M.D.
Shelton Duruisseau, Ph.D.
Richard Fantozzi, M.D.
Gary Gitnick, M.D.
Sharon Levine, M.D.
Reginald Low, M.D.
Mary Lynn Moran, M.D.
Janet Salomonson, M.D.
Gerrie Schipske, R.N.P., J.D.

QUARTERLY BOARD MEETING

Action may be taken on any item listed on the agenda.

July 23 - 24, 2009

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

AGENDA

Thursday, July 23, 2009
3:30 p.m. to 5:00 p.m.
(or upon conclusion of the Wellness Committee)

Friday, July 24, 2009
9:00 a.m. to 3:30 p.m.

ORDER OF ITEMS IS SUBJECT TO CHANGE

Thursday, July 23, 2009 3:30 p.m. or upon completion of the Wellness Committee

1. Call to Order / Roll Call
2. Approval of Minutes from the May 8, 2009 meeting
3. Public Comment on Items not on the Agenda
4. Board Member Communications with Interested Parties – Ms. Yaroslavsky
5. "The Role of Hospitalists" – Christine Nelson, M.D.
6. Appointment of Board Member to the Health Professions Education Foundation – Ms. Yaroslavsky

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, and to promote access to quality medical care through the Board's licensing and regulatory functions.

7. Legislation – Ms. Whitney
   A. Status of Regulatory Action
   B. 2009 Legislation

8. Federation of State Medical Boards Update - Ms. Chang

9. Education Committee Update – Ms. Yaroslavsky

10. Wellness Committee Update – Dr. Duruisseau

11. Physician Assistant Committee Update – Dr. Low

12. Action on Recommendation of Special Faculty Permit Review Committee – Dr. Gitnick

****

Friday, July 24, 2009 9:00 a.m.

13. Call to Order / Roll Call

14. Public Comment on Items not on the Agenda

15. President's Report - Ms. Yaroslavsky
   A. Committee Assignments

16. Executive Director's Report – Ms. Johnston
   A. Budget Overview and Staffing Update
   B. Proposed Meeting Dates for 2010

17. Officers' Term of Office – Ms. Yaroslavsky
   A. Election of Officers

18. 9:00 a.m. REGULATIONS – PUBLIC HEARING – Ms. Pellegrini and Ms. Scuri
   International Medical School Regulations: (CCR, Title 16, Section 1314.1). This proposal amends the standards and methodology for the review of international medical schools.

19. 9:10 a.m. REGULATIONS – PUBLIC HEARING – Ms. Cohen and Ms. Scuri
   Regulations regarding Notice to Consumers by Physicians. This proposal implements Business and Professions Code Section 138 by mandating notification to consumers by physicians of the fact they are regulated by the Medical Board of California, with the Board's toll-free number and its Web site.

20. Discussion of Medical Spas and Issues Related to the Board – Ms. Whitney
    A. Senate Bill 674 and Related Supervision Issues
    B. Corporate Practice of Medicine Laws
    C. Operation Safe Medicine
    D. Specialty Society Presentations
    E. Formation of Task Force

21. Licensing Chief's Report – Ms. Pellegrini

22. Midwifery Advisory Council Appointment – Ms. Pellegrini

23. Recognition of St. George University School of Medicine (Branch Campus in England) - Ms. Pellegrini

24. Executive Committee Update - Ms. Yaroslavsky
    A. Vertical Enforcement Report to Legislature – Ms. Threadgill

25. Enforcement Chief's Report – Ms. Threadgill
    A. Approval of Orders Restoring License Following Satisfactory Completion of Probation, Orders Issuing Public Letter of Reprimand, and Orders for License Surrender During Probation
    B. Expert Utilization Report
    C. Enforcement Program Update
    D. Disciplinary Guidelines Update

26. Agenda Items for October 29 -30, 2009 Meeting

27. Adjournment

NOTICE: The meeting is accessible to the physically disabled. A person who needs disability-related accommodations or modifications to participate in the meeting shall make a request to the Board no later than five working days before the meeting by contacting Cheryl Thompson at (916)263-2389 or sending a written request to Ms. Thompson at the Medical Board of California, 2005 Evergreen Street, Suite 1200, Sacramento, CA 95815. Requests for further information should be directed to the same address and telephone number.

Meetings of the Medical Board of California are open to the public except when specifically noticed otherwise in accordance with the Open Meetings Act. The audience will be given appropriate opportunities to comment on any issue presented in open session before the Board, but the President may apportion available time among those who wish to speak.

****

For additional information call (916) 263-2389.

MEDICAL BOARD OF CALIFORNIA
Executive Office

Medical Board of California
Hearing Room
2005 Evergreen Street
Sacramento, CA 95815

July 23 -24, 2009

MINUTES

In order to remain consistent with the record, the agenda items presented in these minutes are listed in the order discussed at the July 23-24, 2009 meeting.

Agenda Item 1 Call to Order/ Roll Call
Ms. Yaroslavsky called the meeting of the Medical Board of California (Board) to order on July 23, 2009 at 3:43p.m. A quorum was present and notice had been sent to interested parties.

Members Present:
Barbara Yaroslavsky, President
Jorge Carreon, M.D.
Hedy Chang, Secretary
John Chin, M.D.
Shelton Duruisseau, Ph.D.
Gary Gitnick, M.D.
Sharon Levine, M.D.
Reginald Low, M.D.
Mary Lynn Moran, M.D.
Janet Salomonson, M.D.
Frank V. Zerunyan, J.D., Vice President

Members Absent:
Gerrie Schipske, R.N.P., J.D.
Richard Fantozzi, M.D.

Staff Present:

Barb Johnston, Executive Director
Kimberly Kirchmeyer, Deputy Director
Nicola Biasi, Investigator
Susan Cady, Enforcement Manager
Candis Cohen, Public Information Officer
Janie Cordray, Research Specialist
Abbie French, Telemedicine Manager
Scott Johnson, Information Systems Analyst
Arlene Krysinski, Discipline Program Analyst
Ross Locke, Business Services Office
Armando Melendez, Business Services Office
Kelly Nelson, Legislative Analyst
Pat Park, Licensing Analyst
Debbie Pellegrini, Chief of Licensing
Paulette Romero, Associate Analyst
Kevin Schunke, Regulation Coordinator
Anita Scuri, Department of Consumer Affairs, Supervising Legal Counsel
Cheryl Thompson, Executive Assistant
Renee Threadgill, Chief of Enforcement
Linda Whitney, Chief of Legislation

Members of the Audience:

Yvonne Choong, California Medical Association
Zennie Coughlin, Kaiser Permanente
Frank Cuny, California Citizens for Health Freedom
Erica Eisenlaver, Department of Consumer Affairs
Julie D'Angelo Fellmeth, Center for Public Interest Law
Laurie Gregg, M.D.
Jose Guerrero, Supervising Deputy Attorney General
Tom Kopko, California Citizens for Health Freedom
Christine Nelson, M.D.
Rosielyn Pulmano, Senate Business and Professions Committee
Carlos Ramirez, Senior Assistant Attorney General
Rehan Sheikh
John Toth, M.D., California Citizens for Health Freedom

Agenda Item 2 Approval of Minutes from the May 8, 2009 Meeting

Ms. Chang made a motion to approve the minutes from the May 8, 2009 meeting. Dr. Moran seconded the motion; motion carried.

Agenda Item 3 Public Comment on Items Not on the Agenda

Dr. Gitnick stated the Board is confronted with progressively fewer resources to work within carrying out its mandate of public protection. Dr. Gitnick reported he previously had made a

motion which was passed unanimously by the Board, requesting the Board regularly undergo an independent outside review. The review, which would be commissioned and paid for by the Board and be conducted approximately every two years, would examine the Board's role and evaluate its success in carrying out that role. Further, the review would examine the Board's resources and obligations, and would make recommendations for the best use of those resources. Dr. Gitnick indicated the motion was reaffirmed by the Board last year. He asked for an update on the status of the review and whether it was ready to move forward.

Ms. Johnston indicated staff is aware of the Board's motion and have been working on this issue. She stated the motion would be fully implemented before the next Board meeting.

Frank Cuny, California Citizens for Health Freedom, asked the Board to make changes to the Health and Safety code that would enable physicians and licensed naturopathic doctors to offer alternative cancer treatments under specific conditions. He noted California is currently the only state in the nation where it a criminal offense for a licensed physician to perform treatments other than chemotherapy, radiation, and surgery for cancer. Tom Kopko and Dr. John Toth echoed Mr. Cuny's request for changes to the code.

Agenda Item 4 Board Member Communications with Interested Parties
None of the members had any communications to disclose.

Agenda Item 7 Legislation

B. 2009 Legislation
Ms. Whitney referred Members to the 2009 Legislative packet and the color-coded tracker listing in the packet that was mailed to members and made available to the public.

AB 501 (Emmerson) Licensing: Limited License, Use of M.D., Fee/Fund
Ms. Whitney reported this Board-sponsored bill has been amended to address concerns raised by the Public Safety Committee over the wording "under penalty of perjury". Language has been added to reflect that anyone who untruthfully signs the limited license agreement would be subject to any sanctions available to the Board. Hence, the protections remain essentially the same. The bill has support from all the medical schools in California and continues to move forward.

AB 1070 (Hill) Enforcement Enhancements: reporting, public reprimand
This Board-sponsored bill, which contains revisions to malpractice reporting and the extension of the vertical enforcement/prosecution model, is currently in Senate Appropriations. There is considerable Republican opposition to the bill and extensive work will be required when it goes to the Governor's desk. Ms. Whitney indicated she will enlist the Board's help in encouraging the Governor's signature on the bill.

AB 245 (Ma) **Disclosure Verification**

The Board had previously taken an oppose position on the bill; however, the bill has been amended to delete the requirement that the Board verify the accuracy of information posted on its website regarding enforcement actions or other items requiring posting and now only requires the Board to remove information within 90 days of notification that an expungement has occurred by the court. The Executive Committee recommended a revised neutral position on this bill. Dr. Duruisseau made a motion to take a neutral position on AB245; s/Moran; motion carried.

AB 526 (Fuentes) **Public Protection and Physician Health Program Act of 2009**

Ms. Whitney indicated this bill is the California Medical Association's Physician Health Program bill for the monitoring of physicians prior to the cause of any harm to patients. The Board had previously taken a watch position. The bill was amended to require the Board to collect the fees to support the program, thus, the Executive Committee recommended an oppose position on the bill. Dr. Gitnick made a motion to oppose the bill; s/Chang; motion carried.

SB 674 (Negrete McLeod) **Outpatient settings / Advertising**

This bill covers a variety of subjects, including advertising outpatient settings, accreditation requirements, supervision of laser and intense pulse light device procedures, the wearing of nametags, and public information. The requirement that assisted reproductive technology clinics fall under outpatient surgery guidelines was deleted when the bill was amended; however, in vitro clinics will still fall under these guidelines. The requirement the Board perform the inspections of all settings every three years was also removed, with the accreditation agency now responsible for performing this function. This amendment has eliminated the mandatory cost associated with the bill. Staff recommended no action on this bill at this time.

SB 726 (Ashburn) **Hospitals: employment of physician; pilot project revision**

Previously, there were three bills addressing the employment of physicians by district and rural hospitals. The Board took a support in concept position, supporting the expansion so a full evaluation of the employment of physicians in hospitals could be performed, but preferred only one of the three bills move forward. SB 726 was amended to retain some of the components in the current program and expand others. The bill limits the hiring to two physicians per hospital (as the current program does) but gives the Board the ability to approve up to three more physicians. The bill includes both rural and district hospitals in the pilot, for a potential of 84 settings, and allows for the approval of the hire by the CEO, versus the hospital medical committee. Additionally, the amended bill requires a hospital to show 12 months of need (an unsuccessful 12 month recruitment period) and requires the new hires to come from outside the area. Dr. Moran made a motion to support the bill; s/Chang; motion carried; one abstention.

SB 820 (Negrete McLeod & Aanestad) **Peer Review**

Ms. Whitney indicated the language from SB 700, which did not move forward, was incorporated in this bill. The code section 805.01 requires the filing of a report after a formal investigation and prior to an 809.2 hearing if the physician is accused of gross negligence, drug or alcohol abuse, repeated acts of excessive prescribing, and sexual misconduct. The bill also authorizes the Board to inspect and copy documents in the record of any investigation, including

obtaining certified medical records. If the peer review report is found by a court to have been conducted in bad faith, then the report would be expunged from the Board's website.

Rosielyn Pulmano, consultant from the Senate Business and Professions and Economic Development Committee, stated SB 820 provides the Medical Board with the necessary enforcement tools needed to pursue substandard care and asked the Board for its support.

Ms. Chang made a motion to take a support position on SB 820; s/Gitnick; motion carried.

Agenda Item 5 "The Role of Hospitalists"

Dr. Christine Nelson made a presentation to the Board on the growing role of hospitalists in medical care. Hospitalists are defined as physicians who spend 25% or more of their time taking care of patients who are in-patients. They represent all of the various specialties including internal medicine, family medicine, pediatrics, and surgery, with various niche subspecialties such as psychiatry, orthopedics, and obstetrics/gynecology in the future. The number of hospitalists is growing by 10-20% per year. Most hospitalists have both patient care and administrative roles within their institutions.

Dr. Low expressed his concern that there were no exams, national standards, or specialty training program for hospitalists. He felt there should be a specialty board for hospitalists and greater regulation. Dr. Nelson indicated the move to create a specialty board is in process.

Agenda Item 6 Appointment of Board Member to the Health Professions Education Foundation

Ms. Chang made a motion to appoint Dr. Duruisseau as the Board's representative on the Health Professions Education Foundation; s/Moran; motion carried.

Agenda Item 8 Federation of State Medical Boards Update

Ms. Chang provided an overview of the organization of the Federation of State Medical Boards (FSMB). FSMB consists of 70 boards, 350 employees located in Dallas, numerous committees, and 16 board members (12 physician members, 2 public members, and 2 executive directors). She discussed the various standing committees, including the Nominating Committee on which Dr. Moran serves, the Education Committee on which Dr. Salomonson serves, and the Advisory Council of Board Executives on which Barb Johnston serves. Ms. Chang serves on the Board of Directors.

Agenda Item 9 Education Committee Update

Ms. Yaroslavsky reported the Committee met on July 23, 2009 and discussed educating the public and the medical profession regarding sexual misconduct and the physician-patient relationship; presentations were made by Dr. Chris Searles from the UC San Diego Physician

Assessment and Clinical Education Program (PACE) and Robert McKim Bell, J.D., from the Los Angeles Attorney General's Office. The Committee decided to move forward with website enhancements to make information on this topic more accessible.

Agenda Item 10 Wellness Committee Update

Dr. Duruisseau reported the Committee met on July 23, 2009 where Dr. William Norcross reported on a new healthy students program at UC San Diego. Dr. Peter Yellowlees from UC Davis Medical Center made a presentation on their well-being committee and offered to collaborate with the Board to create a series of videos that would be CME accredited and available on both UC Davis' and the Board's website to address physician health issues and provide valuable information to physicians. The Committee asked staff and the university to develop a plan that the Committee could consider in the future.

Dr. Duruisseau reported on the status of the Committee's meeting with the Governor's Office regarding potential legislation for formalizing a physician wellness program into law. The Committee will follow up by providing language for this potential legislation and will continue to work with the Governor's staff on this issue. The Committee also discussed the value of conducting a survey to identify wellness activities, or the lack of activities, in various healthcare settings, particularly in hospitals, throughout California.

Agenda Item 11 Physician Assistant Committee Update

Dr. Low reported on the important issues before the Physician Assistant Committee (PAC), which met in May 2009 in Sacramento. He indicated legislation in 2008 authorized the PAC to require a licensee to complete continuing education as a condition of license renewal. A workgroup suggested the requirement should be 50 hours of Category 1 CME every two years. This proposed language was approved by the PAC, and a regulatory hearing will be set for the August 2009 meeting.

In keeping with the State's budget concerns, Dr. Low stated the PAC has been taking measures to improve efficiencies and reduce costs. Conversely, due to the increased number of PAs participating in the Diversion Program, the PAC has submitted a budget change proposal for about $50,000.

Dr. Low reported that physicians who supervise students at clinical rotation sites are called preceptors. Per current regulations, a preceptor may not supervise more than one preceptee at a time. The PAC has initiated discussion on the ratio of preceptors and their students and will discuss this further at future meetings.

The PAC has a licensing outreach program where PAC staff visit colleges to speak to future applicants about the licensing process. In addition, Dr. Low indicated PAC participated in the Department's roundtable meeting for health boards and the Substance Abuse Coordination Committee to create uniform standards applicable to healing arts substance abusing licensees.

The Assembly Speaker recently appointed a new public member. However, there currently are two additional vacancies on the Committee; both are to be filled by physician assistants.

Dr. Low reported the next Committee meeting will be August 13, 2009 in Sacramento.

Agenda Item 12 Action on Recommendation of Specialty Faculty Permit Review Committee

Dr. Gitnick reported the Special Faculty Permit Review Committee met by phone on June 16, 2009 to review the qualifications and credentials of candidate Dr. Osamu Ukimura. The Committee recommends approval contingent upon the applicant obtaining and submitting fingerprint clearances and confirming a legal visa. Ms. Chang made a motion to approve the Committee's recommendation on Dr. Ukimura; s/Levine; motion carried.

Ms. Yaroslavsky adjourned the meeting at 4:58 p.m.

****

Agenda Item 13 Call to Order/ Roll Call

Ms. Yaroslavsky called the meeting to order on July 24, 2009 at 9:05 a.m. A quorum was present and notice had been sent to interested parties.

Members Present:

Barbara Yaroslavsky, President
Jorge Carreon, M.D.
Hedy Chang, Secretary
John Chin, M.D.
Shelton Duruisseau, Ph.D.
Gary Gitnick, M.D.
Sharon Levine, M.D.
Reginald Low, M.D.
Mary Lynn Moran, M.D.
Janet Salomonson, M.D.
Frank V. Zerunyan, J.D., Vice President

Members Absent:

Gerrie Schipske, R.N.P., J.D.
Richard Fantozzi, M.D.

Staff Present:

Barb Johnston, Executive Director
Kimberly Kirchmeyer, Deputy Director
Nicola Biasi, Investigator
Susan Cady, Enforcement Manager
Candis Cohen, Public Information Officer
Janie Cordray, Research Specialist
Abbie French, Telemedicine Manager
Ross Locke, Business Services Office

Armando Melendez, Business Services Office
Kelly Nelson, Legislative Analyst
Pat Park, Licensing Analyst
Debbie Pellegrini, Chief of Licensing
Paulette Romero, Associate Analyst
Kevin Schunke, Regulation Coordinator
Anita Scuri, Department of Consumer Affairs Supervising Legal Counsel
Cheryl Thompson, Executive Assistant
Renee Threadgill, Chief of Enforcement
Linda Whitney, Chief of Legislation

Members of the Audience:

Jack Bruner, M.D., California Society of Plastic Surgeons
Yvonne Choong, California Medical Association
Zennie Coughlin, Kaiser Permanente
Erica Eisenlaver, Department of Consumer Affairs
Julie D'Angelo Fellmeth, Center for Public Interest Law
Beth Grivett, PA-C, California Academy of Physician Assistants
Jose Guerrero, Supervising Deputy Attorney General
Suzanne Kilmer, M.D., American Society for Dermatologic Surgery
Mary Knight Johnson
Tim Madden, California Society of Plastic Surgeons
Tina Minasian, Patient Advocate
Charles Modica, St. George's University
Tom Monihan, Government of Grenada
James Nuovo, M.D., UC Davis
Paul Phinney, M.D., California Medical Association
Rosielyn Pulmano, Senate Business and Professions Committee
Carlos Ramirez, Senior Assistant Attorney General
Harold Simon, M.D., Ph.D., Medical Consultant
Rehan Sheikh
John Valencia, American Society for Dermatologic Surgery
Bindhu Varghese, Consumers Union

Agenda Item 15 President's Report

Ms. Yaroslavsky stated she is looking forward to serving as the Board's president in the coming year and has already been working with staff on a variety of issues for the Board. On May 13, 2009, she and Ms. Johnston met with Secretary Fred Aguiar and Undersecretary Scott Reid of the State and Consumer Services Agency to discuss current issues before the Board. She and Ms. Johnston also met with Deborah Pellegrini, Chief of Licensing, to review the entire licensing program and the current concerns it is facing. On July 23, 2009, Ms. Yaroslavsky and Ms. Johnson attended a meeting with Secretary Aguiar regarding the Board's and other healing arts boards' enforcement program.

On June 29, 2009, Ms. Yaroslavsky reported she testified on AB 1070, the Board's enforcement legislation, at the Senate Business and Professions Committee. She was present to also testify on the Board's licensing legislation, AB 501, but this was approved as a consent item and, thus, testimony was not required.

Ms. Yaroslavsky noted, with the addition of new Members to the Board over the past several months, it would be timely to review the Board's committees and discuss ways to balance out participation by Members. She directed Members to page 45 of their packets to view the current committee roster and invited suggestions from the Members who would like to change or add their name to another committee.

Dr. Levine asked to be added to the Education Committee. Dr. Carreon asked to be added to the Cultural and Linguistic Competency Work Group, the Education Committee, and the Wellness Committee.

Agenda Item 16 Executive Director's Report

A. Budget Overview and Staffing Update

Ms. Johnston directed Members to page 47 of their packets to the Budget Overview. She reported, due to the Governor's executive orders over the past few months, the Board was required to implement a two-day furlough beginning in February 2009 and more recently, was mandated to furlough staff three days per month which reduces staff salaries by 15%. Staff productivity and morale have been affected by the furloughs.

Ms. Johnston stated the backlog in processing applications has been growing. Staff has tried to find creative ways to deal with this issue, including using overtime and temporary help, but the budgets for these line items have been exhausted. Ms. Johnston indicated the Chief of Licensing and Chief of Enforcement will address the impact of the staff's time reduction and its affect on timelines in their reports. In addition to the mandated furloughs, the Department of Consumer Affairs and the State and Consumer Services Agency have requested that the Board cut its operating budget by 15%. Ms. Johnston expressed her concern over the Board's ability to meet its public protection mandate in light of these cuts.

Ms. Johnston responded to questions from Members on specific line items in the budget, including the loan of $6 million from the Board's fund to the General Fund, and the overtime expenditures.

B. Proposed Meeting Dates for 2010

Ms. Johnston directed Members to page 56 of their packets for the proposed 2010 meeting dates. She asked the Board's permission to allow the Executive Director, if required by further executive orders, to move the meeting dates, if necessary. She reported some of the executive orders have required canceling contracts, thereby requiring the Board to move its meetings to Sacramento since it is unable to enter into new contracts with meeting facilities. It is anticipated that the meeting dates, if changed, would remain within the same week and would only shift one

day. Ms. Yaroslavsky suggested that San Jose be considered as a location for future quarterly meetings.

Dr. Duruisseau made a motion to approve the meeting dates and to allow the Executive Director to change the dates if necessary; s/Chang; motion carried.

Ms. Johnston reported she was appointed in May to the FSMB Advisory Council of Board Executives to provide guidance and feedback to FSMB senior staff. She and Ms. Pellegrini have been in discussion with FSMB regarding license portability issues, their Universal License application, and the Federation's certification and verification.

Ms. Johnston continues to meet with DCA and other executive officers as a member of the SB 1441 Substance Abuse Coordination Committee which is developing standards for substance abusing licensees. Mr. Johnston and staff have met with David Chaney and Carlos Ramirez of the Attorney General's Office on the vertical enforcement model. She has also met with Bill Barcellona of the California Association of Physician Groups (CAPG) to discuss physician health, and with

Dr. Carlisle of OSHPD to discuss their Health Professional Clearinghouse project. In addition, Ms. Johnston reported she participated in a teleconference with the American Telemedicine Association and the FSMB to discuss challenges and solutions for dealing with physicians who want to practice in multiple states.

Agenda Item 14 Public Comment on Items not on the Agenda
There was no public comment.

Agenda Item 17 Officers' Term of Office
Ms. Whitney presented information on the history of the election of Board officers and their terms of office. Ms. Kirchmeyer presented staff's recommendation that elections be held at the third quarter meeting (July meeting) since the membership of the Board is usually determined by this time and it would allow the officers to serve a full one year term without interruption. The elected officers would begin their term at the end of the July meeting. Staff also recommended that if the election time was changed, the current slate of officers continue in their positions until July 2010. Dr. Salomonson made a motion to move the elections to July of each year, to have the officers take over at the end of the July meeting, and to have the current slate of officers continue in their positions until July 2010; s/Moran.

Ms. Yaroslavsky asked about the benefit of holding the elections in May and take office in July in order to allow time for the newly elected officers to become acclimated to their new positions. Ms. Whitney stated a May election could be implemented with the addition of a "president-elect" position with a reconfirmation in July. She agreed with Ms. Yaroslavsky that the transition period was helpful, but noted the past president typically remains part of the Executive Committee and could accompany the new president to legislative hearings. Ms. Whitney

explained the downside of a May election date is the Members' terms of office typically end June 1, thus creating the possibility of a newly elected officer not being reappointed.

Mr. Zerunyan stated, in local government, elected officers automatically move from one position to the next in a prescribed manner of succession. For example, the secretary moves to the office of vice president, and the vice president moves to the office of president. Rather than electing a whole new slate of officers each year, this succession model would eliminate the issue of acclimation.

Ms. Yaroslavsky called for the vote and the motion to hold elections at the July meeting, have the officers take over at the end of the July meeting, and to accept the current slate of officers as the officers for 2009-2010 carried.

Agenda Item 18 REGULATIONS – PUBLIC HEARING

Ms. Yaroslavsky opened the public hearing on the proposed regulation to amend Section 1314.1 of Title 16 of the California Code of Regulations as described in the notice published in the California Regulatory Notice Register and sent by mail to those on the Board's mailing list. The Board seeks to amend the regulation relating to the review of international medical schools to keep the language current and useful. Specifically, this rulemaking updates and adds specificity to the existing standards and methodology that the Board uses to review international medical schools in order to determine their compliance with Business and Professions Code sections 2089 and 2089.5. For the record, Ms. Yaroslavsky stated the date was July 24, 2009; the hearing began at approximately 9:40 a.m. No written testimony was received by the July 20, 2009 deadline.

Ms. Scuri explained the regulations have been in effect for approximately six years; during this time, Board staff and the Board's expert medical consultants have identified deficiencies in the current regulations. These additional provisions, if adopted, would add greater specificity to the process for the review of international medical schools. Ms. Scuri noted the regulations were originally adopted based on Liaison Committee on Medical Education (LCME) standards which have since changed. The proposal would bring the regulations up to date. She referred Members to page 59 of their packets for details of the wording of the proposed regulations.

Oral testimony in support of the proposed regulation was offered by Dr. Harold Simon, Professor of International Health Policy at the UC San Diego School of Medicine and consultant to the Board on the evaluation and recognition of international medical schools.

Charles Modica, Chancellor of St. George's University in Grenada, offered his support for the proposal from the perspective of a medical school that falls under the regulations. Given the wide disparity in the quality of the medical schools in the Caribbean, he stated the need for the regulations is clear. He noted California has the most rigorous scrutiny of foreign medical schools in the nation and felt this scrutiny makes the schools and programs better.

Ms. Yaroslavsky closed the hearing. Dr. Gitnick made a motion to adopt the regulation; s/Chang; motion carried.

Agenda Item 19 REGULATIONS – PUBLIC HEARING

Ms. Yaroslavsky opened the public hearing on the proposed regulation to adopt Section 1355.4 of Title 16 of the California Code of Regulations as described in the notice published in the California Regulatory Notice Register and sent by mail to those on the Board's mailing list. The Board seeks to adopt language which will require physicians to notify patients that they are licensed and regulated by the Medical Board of California. Physicians may provide the notice in one of the specifically enumerated options: prominently posting a sign, including it in a written notice to be signed by the patient and kept in his or her medical record, or including it just above the signature line on a document given to the patient that the patient signs. For the record, Ms. Yaroslavsky stated the date was July 24, 2009; the hearing began at approximately 9:55 a.m. Ms. Yaroslavsky reported written testimony received by the July 20, 2009 deadline was distributed to Board Members.

Ms. Scuri reported the recommendation for this proposal came from the Education Committee; written testimony will become part of the record.

Tina Minasian, patient advocate, offered oral testimony in support of the proposal. She stated she was unaware of the existence of the Board and its enforcement role following injury sustained at the hands of a physician. She felt doctors should be required to notify the public of who regulates them, just as auto repair shops, realtors, and construction sites are required to do. She also urged the Board to sponsor legislation repealing, or at least lengthening, the statute of limitations for filing physician complaints. Ms. Minasian stated the adoption of Section 1355.4 will make consumers better informed and will increase communication between consumers and the Board.

Dr. Paul Phinney, California Medical Association, offered testimony in opposition to the proposed regulations. Dr. Phinney stated the regulations are unnecessary since state law already requires physicians to post their medical license or wear a nametag. He felt the regulation would place an additional administrative burden on physicians and would increase costs. He also stated the regulations do not provide a meaningful benefit to patients, the doctor-patient relationship, or the health care delivery system in general and were a waste of resources. In addition, Dr. Phinney stated failure to comply with the regulations constitutes a new and unnecessary cause of action for discipline against physicians. He stated callers may contact the Board out of confusion and, in dealing with these calls, may further impede the Board's ability to fulfill its role. He urged the Board to withdraw the proposal and focus its efforts on educating physicians about existing responsibilities to identify themselves and post their license.

Yvonne Choong, California Medical Association, opposed the regulations and stated the proposal, as written, places the burden of complying with the regulation on the physician, even though compliance may be out of the physician's control, such as would be the case for physicians who work in hospitals or large group practices.

Julie D'Angelo Fellmeth, Center for Public Interest Law, speaking in support of the regulations, stated Business and Professions Code Section 138 mandates the Board require its licensees to provide notice to their patients that they are licensed by the State of California. She stated a

nametag does not do this. She indicated the Legislature wants patients to know where to file a complaint and to avail themselves of the information and services provided by regulators. Ms. Fellmeth reported she saw countless cases where the Board was unable to take action because patients filed their complaints after the running of the statute of limitations, being unaware of the Board's existence and its role until it was too late. She also reported she saw many cases where the Board's investigators, in investigating a case, checked the Civil Index and found numerous medical malpractice actions filed against a physician by patients who had never filed a complaint with the Board. Ms. Fellmeth stated the regulations had been written to eliminate any undue burden on physicians and provided options for compliance to doctors who do not have office space practices. She stated there was ample precedence for the regulation with hospitals and health facilities, pharmacists, optometrists, and many other licensed professionals required to post signage about their regulation. She concluded by saying the regulations were not burdensome, confrontational or adversarial, but merely informational and consistent with the Board's public protection priority. Ms. Fellmeth also suggested the Board consider requiring the posting of the sign in languages other than English by physicians whose patients don't speak English as their first language.

Bhindu Varghese, speaking on behalf of the Consumers Union, the California Public Interest Research Group, the Consumer Federation of California, the California Pan Ethnic Health Network, and the California Safe Patient Network, urged the Board to adopt the regulations. She stated patient awareness of the Board's existence and disciplinary function is essential in identifying problem doctors and performing public protection. Ms. Varghese urged the Board to consider strengthening the regulation by requiring physicians to both post the notice in a prominent place in the waiting area and provide notice on a document sent home with the patient (exempting physicians without an office from the posted notice requirement). Further, Ms. Varghese suggested the regulation be amended to include the language "complaints about care may be submitted to the Medical Board of California". Finally, she urged the Board to require the notice be posted in English as well as in any other language regularly encountered by the physician and staff, with these translations being provided by the Board to physicians on its website.

Mary Knight Johnson, member of the public, stated she was unaware of her option to file a complaint with the Board over the treatment she received from a physician until that morning when she saw a report on the television news. She supported the regulation for physicians to inform their patients of the Board's existence and role.

Hearing no further testimony, Ms. Yaroslavsky closed the hearing.

Rather than providing physicians with three options for compliance, Mr. Zerunyan suggested the regulation be worded to require physicians to post a sign *and* provide patients with a separate written statement about regulation by the Board *or* include this information on other documents given to patients where the notice is placed immediately above the signature line for the patient.

Dr. Salomonson stated that offering three options allowed physicians who do not have an office practice and have no control over signage to comply with the law.

In responding to a question by Ms. Yaroslavsky on the cost of compliance, Ms. Cohen reported the cost to a solo practitioner was calculated to be, at most, $4.50 per office: $.05 to download the signage from the Board's website and $4.45 for printing and a frame (as quoted by a local office supply store) if the physician chooses to frame the sign.

Dr. Salomonson made a motion to adopt the proposed regulation as it is written; s/Dr. Duruisseau.

Board members discussed the flexibility for physicians to comply with the regulation. Dr. Gitnick stated the issue would likely become more complex in the future as telemedicine and out of state consultations via video become more commonplace. He indicated the Board may need to revisit this issue at some point.

Ms. Yaroslavsky called for a vote; the motion to adopt the proposed regulation as written carried.

Agenda Item 21 Licensing Chief's Report

A. Licensing Program Update

Ms. Pellegrini provided an update on the licensing program. She reported the licensing program had established a priority system to process applications by type of application rather than date order. Top priority was given to California residents needing licensure to continue their training, followed by incoming fellows and residents starting their training July 1, 2009. Staff was able to review 1200 applications for residents and fellows by the deadline and licensed 90% of the applicants identified. Incoming fellows comprised most of the 10% that were not licensed by July 1st, but many of them have since been licensed. She reported 34 letters were sent to residents to cease their training until they were licensed as they had not submitted all required documents, had applied after June 15th, or had documented criminal convictions and post graduate training issues that required significantly more staff time to gather all the documents. Overall, the changes in this year's July 1st residency priority program were valuable and saved considerable processing time and improved customer satisfaction.

Ms. Pellegrini reported she and Mr. Schunke are setting up meetings with the program directors state-wide this fall to inform them about the backlog and to encourage all the residents in training programs to submit their applications by December 31st.

Ms. Pellegrini stated the licensing department is once again taking applications in date order. The major contributing factor to the growing backlog is the three day a month furlough

program which has resulted in a 15% loss in productivity and a loss of 810 employee work hours per month. Ms. Pellegrini indicated the department, with furloughs, is being staffed for processing 4500 applications per year when in fact there have been 6600 applications received over the past year. Currently, there are 673 applications that have not been reviewed within the mandatory timeline of 60 working days. As a consequence of this backlog, staff spends a significant amount of time responding to frustrated applicants, program directors, and employers. Ms. Pellegrini hopes to get the backlog to about four and a half months from the date an

application arrived to when it is initially reviewed. If an application is complete, it will be licensed within the same week; if items are missing, then a deficiency letter is sent informing the applicant of what needs to be submitted.

Ms. Pellegrini described the Web Application Look-Up Project which will allow applicants to review the status of their applications online. Once implemented, this should provide a new service for applicants, reduce time consuming phone interactions, and allow more time for processing applications.

Ms. Pellegrini reported the call center typically receives 500 - 520 calls a day. However, the number of calls has increased to 850 – 920 on the Mondays following a furlough day. Staff must be pulled from licensing operations to answer the phones on these days.

The business process re-engineering study for the licensing program, mentioned at the last Board meeting, has been delayed due to the Governor's order restricting contracts. Once the state budget is signed and the Board's reduction plan is approved, staff will proceed with this project which will determine necessary staffing levels and identify processes to improve efficiencies within the licensing department. Budget change proposals have been submitted to increase both the call center and licensing staff to more appropriate levels.

Dr. Gitnick reported he has received multiple phone calls and emails from deans and directors of medical education at different University of California campuses because of the problems that have evolved regarding licensing. He recommended a letter be sent from the Board, addressed to each of the deans and the directors of medical education and any other constituents affected by licensing delays, flatly stating it is imperative when they accept someone for a position at a medical center the person immediately move forward with developing the dossier for licensure. Additionally, he stated the onus for making that dossier complete falls on the applicant, not on the staff of the Board. Dr. Gitnick stated educational institutions will likely need to start notifying applicants of their acceptance or rejection into fellowship programs more than 6 months in advance. Additionally, deans may have to move back fellowship reviews in order to ensure licensure by July 1.

Dr. Salomonson expressed her desire to have a metric in addition to speed for evaluating the success of the licensing process. While timeliness is important, it is also critical to conduct a thorough review in order to protect the public from individuals who should not have a license. Preventing inappropriate licensure should also be a measure of success.

Dr. Carreon stated the need for careful review given the media's recent examination of various boards. He suggested a comparison of licensing data in the last five years to show the impact the current restrictions have had on licensing. He requested suggestions for improvement and offered the Board's assistance.

Mr. Zerunyan stressed the need to search for additional efficiency improvements, citing the web application look-up project as a positive start. He suggested researching what similar agencies

are doing with regard to licensing to cope with the 15% loss of productivity in order to identify efficiencies the Board might also utilize.

Dr. Levine suggested applicants be asked to keep their employer or future employer apprised of the status of their application to avoid duplicate calls to licensing staff. In addition, she recommended informing those who employ physicians in the state, both universities and group practices, that the applicant will soon have the ability to track the exact status of the application and they should talk to the applicant, rather than to the Medical Board, with their questions.

Dr. Low felt the current situation constituted a crisis since licensing is a core responsibility of the Board. Beyond looking at ways to be more efficient in the future, he stressed the need to address the current backlog now. He suggested curtailing all other non-essential activities in order clear the backlog. He also recommended posting information about the backlog on the Board's website and also describing what is being done to address it. Ms. Yaroslavsky agreed a proactive approach would be beneficial.

Dr. Chin was impressed with what staff was able to accomplish given a 50% increase in workload and a 15% reduction in work force hours. He felt the Board should find additional resources to assist staff in addressing the problem. He suggested letting applicants and others know up front how long the licensing process might take in order to manage expectations.

Dr. Duruisseau indicated the UC system, given the cuts they are faced with, has decided to delay some faculty recruiting. If this is adopted system wide, future licensing requests may decline. In the meantime, he challenged the Executive Committee and the Executive Director to explore the possibility of redirecting funds to address the backlog. Ms. Johnston responded that we cannot shift funds from enforcement to licensing.

Ms. Johnston asked for the Board's help in getting the contract for the licensing re-engineering study approved; currently the contract is suspended due to the executive order.

There was lengthy questioning by Members on the licensing backlog and the possibility of appealing the furlough of the Medical Board and its staff since it is a special fund department.

Ms. Yaroslavsky encouraged all Members to go through Candis Cohen, the Board's Public Information Officer, when approached by the media in order to ensure the Board is speaking with a united voice. Additionally, when speaking to the press, she asked members to preface their remarks by stating they are not speaking on behalf of the Board.

Kevin Schunke provided an overview of the outreach he conducts to the teaching hospitals in California. During new resident orientation programs, he provides an overview of the licensing process and encourages the residents to begin the licensing process early and also explains the consequences of being dishonest on the application. He also participates in license fairs (where the teaching hospital brings in a notary, a finger printer, and a photographer to facilitate licensing for residents) by answering questions and taking a quick look at applications to identify potential problems.

During public comment, Yvonne Choong, California Medical Association, stated they have also been receiving calls about the lengthy licensure timelines and expressed her relief that the Board is making this issue a priority. She indicated physicians who come from other states are losing job offers because they are unable to start due to the delay in receiving a California license. Ms. Choong expressed CMA's willingness to work with the Board, including the possibility of producing a webinar on the licensing process to post on CMA's website, expanding the concept of licensing fairs to apply to working physicians, not just residents, and using medical societies to educate physicians on the licensing process.

Agenda Item 20 Discussion of Medical Spas and Issues Related to the Board

A. Senate Bill 674 and Related Supervision Issues

Ms. Whitney reported Senator Figueroa introduced legislation in 2006 to address growing unlicensed activity and corporate practice of medicine issues arising from cosmetic surgery and other procedures being done in medical spas.

Janie Cordray, Research Specialist for the Board, reported Senator Figueroa's legislation required the Board, in conjunction with the Board of Registered Nursing and in consultation with the Physician Assistant Committee and professionals in the field, to review issues and problems surrounding use of laser or intense pulse devices for elective cosmetic procedures. The Boards were to look at issues including the appropriate level of physician supervision, training required, and guidelines for standardized procedures and protocols. It also required the two boards to promulgate regulations by January 1, 2009. She reported the boards held three joint forums in 2007 which were well attended by the stakeholders. Staff analyzed the relevant laws and regulations and reported back on the current environment and what was needed to provide adequate public protection. Dr. Salmonson and Dr. Moran chaired these forums.

Dr. Salomonson stated the forums amply demonstrated there was indeed a problem. The public has a false perception that what is happening at medical spas must be legal or it would not be allowed to continue. She stated this is more than a turf battle where established physicians feel threatened by the competition from these medical spas; the medical spas are dangerous and patients are being harmed. She stated requiring an on-site physician to be present did not guarantee patient safety since the physician may or may not have training in certain core specialties. There was a need to refine legislation and enforce what was already law.

Dr. Jerry Potozkin, President of CalDerm, addressed the need to enforce existing law, including the unlicensed practice of medicine. He reported on procedures being conducted by completely unlicensed individuals, as well as licensed professionals, such as registered nurses, who are performing laser procedures and injecting materials into patients without an appropriate prior examination by a physician. In addition, Dr. Potozkin noted there are relationships in violation of existing corporate practice of medicine laws. Physicians are being hired as medical directors for spas owned by lay people and registered nurses are hiring physicians to be their "supervising physician" in order to procure injectibles such as botulinum toxin. He reported these laws are not being enforced. He questioned the ability of a doctor in another state to supervise an aesthetic

procedure being done in California, particularly if that doctor has received no training in that procedure. Patients are often left with nowhere to turn when they have a complication or an injury from one of these procedures.

Ms. Cordray reported the forums revealed the problems were not due to the lack of law and regulation, but from lack of enforcement. She referenced her memo to Members in Agenda Item 20 for an explanation of why the existing laws were not being enforced.

As a result of the forums, the committee and Full Board adopted the following recommendations:

- Publish a statement clearly outlining the current laws and responsibilities of physicians in providing laser treatments; this may be viewed on the Board's website.
- Re-write and distribute the article "Medical Spas – What You Need to Know" for consumers; this is also available on the Board's website.
- Support the re-establishment of Operation Safe Medicine, which addresses the unlicensed practice of medicine and enforces the laws and regulations related to cosmetic procedures. Ms. Threadgill will report on the implementation of this recommendation.
- Direct staff to work with the Nursing Board to develop an enhanced communication system in cases involving physicians and nurses. This is being done on an on-going basis.
- Direct staff to use the citation and fine process to deter future violations. Ms. Threadgill will report on the implementation of this item.
- Direct staff, before January 1, 2009, to report to the Legislature on the Board's actions and intentions. Ms. Whitney has been working with the legislature.

Ms. Cordray reported there is legislation pending which may affect how these issues are addressed, and the recent furlough of Board employees reduces the resources for enforcement. Regardless of these recent developments, Ms. Cordray stated the Board only has jurisdiction over physicians and enforcing the standards and laws relating to physicians. Nurses, physician assistants, and other allied health professions fall under their separate boards. The Medical Board is responsible to tell the physicians what laws relate to them, their responsibility in supervision, and what discipline the Board will impose for violations.

Rosielyn Pulmano, Senate Business and Professions and Economic Development Committee, addressed the Board on SB 674. She stated the bill included a provision requiring the Board on or before January 1, 2011 to adopt regulations regarding the appropriate level of physician availability needed within clinics or other settings using laser or intense pulse light devices for elective cosmetic procedures, usually referred to as medispas. This provision was included in light of arrangements involving roving physicians, or physicians who enter into a contractual arrangement with a medispa to serve as a medical director in name only and are never available, even in emergency situations. Having a name only physician raises serious concerns for consumer safety.

Astrid Meghrigian, California Medical Association, reported CMA supports SB 674. She indicated CMA has formed a working group to look into the issue of supervision of allied health

professionals and ancillary providers; initial recommendations were made that will proceed to their board of trustees this week. The recommendations for supervision vary depending on the level of complexity of the services being performed moving from general, to direct (where the physician must be on site), to personal supervision (where the physician must be with the patient).

B. Corporate Practice of Medicine Laws

Ms. Scuri provided a review of what the Board has done in the past with regard to the corporate practice of medicine. The prohibition of the corporate practice of medicine originated from case law which held that a corporation may not directly or indirectly engage in the practice of medicine and is currently codified in the Business and Professions Code Section 2400. In addition, Section 2052 makes it a misdemeanor for any person to engage in the unlicensed practice of medicine. There are exceptions to this prohibition which are codified in statute such as professional medical corporations, licensed community clinics, health care service plans, and health maintenance organizations. The prohibition of corporate practice of medicine is intended to protect the public from potential abuses that might stem from the commercial exploitation of the practice of medicine. A physician should not be forced to choose between the employer's dictates and the best interests of the patients.

Ms. Meghrigian, CMA, reported CMA is working with various district attorneys to address sham medical clinics operating in California. She reported there are for-profit educational companies offering consulting services to physicians on how to open a sham medical clinic. Completely non-licensed individuals are directing the physicians in these clinics for the purpose of obtaining workers compensation payments. The district attorney has developed a coalition with the insurance industry to address some of these sham clinics since they cost the state and the insurance companies a lot of money.

Ms. Whitney indicated the Board has actively reviewed and taken positions on laws or bills that would try to delete corporate practice provisions. The Board has also been in support of some exemptions, including narcotic treatment programs and the pilot program allowing district hospitals to employ a limited number of physicians as an opportunity to address access to care issues in certain locations.

D. Specialty Society Presentations

Tim Madden, California Society of Plastic Surgeons (Society), agreed current law seems to be sufficient and enforcement is the solution. He indicated the Society would be willing to participate in a task force or advisory committee to work with Operation Safe Medicine to protect patients.

John R. Valencia and Dr. Suzanne Kilmer, American Society for Dermatologic Surgery (ASDS), reported patients mistakenly assume they are being treated by licensed health care professionals in these medispa settings. ASDS has focused on negative medispa patient outcomes which are neither transient nor minor and, in some cases involve permanent scarring. Missed diagnoses of skin conditions or lesions by medispas have resulted in serious complications and even death. Mr. Valencia noted AB 252, which the Board supports, will improve recovery when the Board effectuates a successful prosecution. Dr. Kilmer reported she routinely treats patients who have

been harmed at medispas. She noted the need for a physician to be present at all times since so many complications are possible. Both Mr. Valencia and Dr. Kilmer offered their help in supporting enforcement and an advisory committee.

C. Operation Safe Medicine

Ms. Threadgill, Chief of Enforcement, indicated the Board's first office of Operation Safe Medicine (OSM) was established in 2000, however, it was closed in 2003 due to the budget shortfalls. The major emphasis of the unit previously was unlicensed activity and backroom clinics. In 2007, the Board voted to re-establish OSM to address the prevention of unlicensed practice and corporate practice of medicine violations and the increasing issues resulting from the rise in medispas. In March 2008, the Board was given approval to re-establish OSM for two years, effective July 1, 2009, but required funding within existing resources. She reported the unit is now functioning and directed Members to the organization chart in Agenda Item 20, tab D to show how OSM fits within the larger enforcement unit. Ms. Threadgill stated, if the workload justifies expansion, a Northern California office may be established. Complaints for this unit should be directed, as all others, to the Board's Central Complaint Unit for processing and assignment in OSM. The Board will be required to submit another budget request in 2010 for Fiscal Year 11/12 to obtain authorization to extend the program and the monies to fund the program.

Ms. Threadgill reported the program's objectives are twofold: first, to detect, investigate, and enforce against unlicensed practice of medicine in those clinics that prey on sick and desperate patients. Second, to detect and enforce against corporate practice of medicine violations. Ancillary violations such as unfair business practice and advertising violations can also be addressed. Although these objectives are similar and overlap, they may involve two distinctly different types of investigations. Unlicensed practice of medicine violations will include investigation of individuals presenting themselves as physicians. Corporate practice violations are more complex and may involve taking administrative action as well as criminal action against practitioners. Even without the OSM resources, Ms. Threadgill noted the enforcement unit continued to conduct enforcement in these areas, but was unable to give it the same priority as will be possible under OSM.

Jose Guerrero, Supervising Attorney General with the Health Quality Enforcement Section, reported the Board adopted a precedential decision in a case that gave clarification and underscored several previous written articles on unlicensed practice and the corporate practice of medicine. The decision also clarified which intense pulse light services or laser treatment procedures other allied health licensees could perform under the direct supervision of a physician. The decision educated consumers as well as the lawyers who advise physicians on what is permitted and prohibited by the law.

E. Formation of Task Force / Advisory Committee

In anticipation of the passage of SB 674, Ms. Yaroslavsky directed the Board's Legislative staff to work on the establishment of a committee to: reflect the recommendations made today; set objectives for the work it will need to do on the hearings; and make recommendations on the

membership and structure of the committee. She asked staff to report back to the Board at the October 2009 quarterly meeting during the Legislative update.

John Caldwell, Public Policy Advocates, and Dr. Jerry Potozkin, CalDerm, have informed Ms. Whitney they would like to participate and work with the Board on these issues.

Agenda Item 23 Recognition of St. George University School of Medicine (Branch Campus in England)

Ms. Pellegrini stated staff recommends the Board grant recognition to St. George's University Branch Campus in England based on the medical consultant's positive findings and recommendations. Dr. James Nuovo, Associate Dean of Graduate Medical Education at UC Davis and consultant to the Board, reported he had reviewed the school's self-assessment report which demonstrates the school meets the accreditation training requirements, and found it acceptable. The branch campus offers the opportunity for students to complete their first year of basic sciences and education in the UK. The curriculum is identical to the curriculum at the main campus in the Caribbean with connections between the two campuses such that the students receive the same type of training and feedback. He recommends the branch campus be approved with the approval being retroactive to January 2007 when the program began.

Dr. Duruisseau made a motion to grant approval of the UK branch campus of the St. George University School of Medicine retroactive to its founding in January 2007; s/Chang; motion carried.

Agenda Item 22 Midwifery Advisory Council Appointment

Ms. Pellegrini reported the Midwifery Advisory Council (MAC) has six members, including 3 licensed midwives and 3 public members, of which 2 are obstetrician/gynecologists (ob/gyn) and 1 is a member of the Board. Staff recommends the open ob/gyn position be filled by appointing Dr. William Frumovitz. Dr. Levine made a motion to approve Dr. Frumovitz's appointment to the MAC; s/Chang; motion carried.

Agenda Item 24 Executive Committee Update

A. Vertical Enforcement Report to the Legislature

Ms. Yaroslavsky reported the draft Vertical Enforcement (VE) Report to the Legislature was discussed at length at the June 18, 2009 Executive Committee meeting. The Executive Committee members approved the report in concept, but asked for a two member committee to review the final report and approve it so it could be delivered to the Legislature by the July1, 2009 deadline. Ms. Yaroslavsky and Mr. Zerunyan reviewed the final report prior to its submission to the Legislature.

Ms. Threadgill directed members to tab 24 in their packets for the staff report and executive summary of the VE report with recommendations. She reported Ken Kobrin and Joan Kawada, Integrated Solutions for Business and Government (ISBG), presented the report to the Executive Committee and received input from the Committee, the Department of Justice Health Quality Enforcement Section, and the Center for Public Interest Law. Adjustments were made to the report to reflect the input and a final report was submitted which was approved for distribution by two members of the Executive Committee. The final report was submitted to the Legislature on July 1, 2009.

Dr. Moran made a motion to approve the final Vertical Enforcement Report recommendations listed in the staff report; s/Levine; motion carried.

Agenda Item 25 Enforcement Chief's Report

A. Approval of Orders Restoring License Following Satisfactory Completion of Probation, Orders Issuing Public Letters of Reprimand, and Orders for License Surrender During Probation

Mr. Zerunyan made a motion to approve the orders; s/Moran; motion carried.

B. Expert Utilization Report

Ms. Threadgill directed members to the Expert Utilization Report in the agenda packets for review.

C. Enforcement Program Update

Ms. Threadgill reported the Operation Safe Medicine (OSM) unit has been reformed under the command of Robin Braafladt and Supervising Investigator Carmen Aguilar-Marquez. The unit's four investigator positions are fully staffed with internal transfers. Currently, 17 unlicensed practice of medicine cases have been assigned to them, 3 of which were presented for criminal filing this week. Ms. Threadgill will provide quarterly updates of the progress and activity of the OSM unit.

The investigator vacancy rate is currently 8, even though vacancies were created due to the transfer of experienced investigators to OSM. Ms. Threadgill stated she anticipates the hiring process will be slower in the coming months due to the need to eliminate unqualified individuals who are on the State Restriction On Hiring list (SROA).

Ms. Threadgill reported the Enforcement unit has made it a priority to reduce the case age average as a matter of public protection. The average case age for closed investigations decreased in five of the twelve district offices in June of 2009. Ms. Threadgill reported an age case council concept was implemented in May 2009 where investigators have been instructed to appear before a council composed of herself, the Deputy Chief, and a representative of the Attorney General's office to explain the obstacles preventing the forward movement of older or stalled cases. Fourteen cases were originally identified for discussion at the first council session

which will be held July 30, 2009. As a result of identifying these fourteen cases, the investigators already have reached disposition on 4 of the cases, 3 went to expert review post haste, and meaningful progress occurred on 2 other cases. This leaves only 5 cases for discussion at the upcoming council.

Ms. Threadgill reported every case over one year old must be reviewed monthly by the supervising investigator, which also helps move cases forward. In addition, a statewide competition among offices to reduce closed case averages has been instituted. The goals vary by the staffing levels and experience in the offices.

Two offices are piloting a concept of attaching a due date to a case at the date of assignment by projecting the necessary steps needed to resolve the matter. This was just implemented so results are not yet available.

Ms. Threadgill reported the impact of the three mandatory days off per month for enforcement staff will result in the loss of 4,272 hours of work per month; this is almost the equivalent of losing 28 or 29 positions each month or like shutting down 4 or 5 district offices every month. She stated this will be extremely damaging to their ability to decrease enforcement timelines.

Previously, Ms. Threadgill reported on her disappointment with the pay classification report received from the contracted vendor. The vendor was contacted and has agreed to provide additional work in order to provide a product more in line with the Board's scope and expectations.

Ms. Threadgill reported on the status of the Complaint Resolution and Information Management System (CRIMS). The CRIMS system is a tracking and case management system that will increase efficiencies and interface with the Attorney General's Office. She indicated her satisfaction with the way the project is progressing and provided a brief overview of how the system will work. She noted this is a multi-year project that will take time to complete and implement.

Mr. Zerunyan noted the various recommendations that were made in the Vertical Enforcement Report and asked Ms. Threadgill about any plans and timelines for implementing these recommendations.

With regard to the report's recommendation to deal with staffing vacancies, Ms. Threadgill reported it is difficult to develop timelines given the SROA restrictions described earlier in her report. The recommendation to obtain a common server is currently being addressed via the CRIMS project which is a scheduled to continue through 2012. Statewide training is being addressed in conjunction with the Attorney General's Office. Training on subpoena enforcement issues for investigators and deputies is being developed and will soon be ready to implement. Consistent uniformity of the vertical enforcement process is being addressed on a subject by subject basis by Ms. Threadgill and Mr. Ramirez.

Mr. Zerunyan suggested Ms. Threadgill and Mr. Ramirez should focus their efforts on those areas identified in the vertical enforcement report that showed increased timelines and decreased efficiencies. He urged Ms. Threadgill to use the Board as a conduit to the public to inform them of the enforcement challenges faced and plans to address these challenges.

D. Disciplinary Guidelines Update

Ms. Threadgill reported an interested parties meeting was convened on June 18, 2009 to discuss the proposed regulatory changes to the disciplinary guidelines to allow for public comment from stakeholders. Representatives from the defense bar, insurance carriers, CMA, and other health care consumers participated. Proposed changes consistent with the comments were reviewed and resulted in minor changes and refinements to the guidelines. Ms. Threadgill reported the Members have already approved proceeding to regulatory hearing with the guidelines, which will occur at the October 2009 Board meeting.

Agenda Item 26 Agenda Items for October 29-30, 2009 Meeting

Dr. Duruisseau requested a presentation to the Board on telemedicine to better understand how patient care is delivered in these settings.

Ms. Yaroslavsky concluded by thanking staff on behalf of the Board for their work and dedication in spite of the current situation.

Action Item 27 Adjournment

There being no further business, the meeting was adjourned at 2:33 p.m.

Barbara Yaroslavsky, M.D., President

Hedy Chang, Secretary

Barb Johnston, Executive Director