MEDICAL BOARD OF CALIFORNIA
Executive Office

Medical Board of California
Marriott Courtyard – Liberty Station
2592 Laning Road
San Diego, CA 92106

October 30, 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 October 30, 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 October 30, 2009 at 9:10 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.
Gerrie Schipske, R.N.P., J.D.
Frank V. Zerunyan, J.D., Vice President

Staff Present:
Barb Johnston, Executive Director
Kimberly Kirchmeyer, Deputy Director
Fayne Boyd, Licensing Program Manager
Susan Cady, Enforcement Manager
Candis Cohen, Public Information Officer
Janie Cordray, Research Specialist
Sean Eichelkraut, Information Systems Analyst
Abbie French, Telemedicine Manager

Sean Heaney, Information Systems Student Assistant
Kurt Heppler, Legal Counsel
Teri Hunley, Business Services Manager
Diane Ingram, Information Services Manager
Ross Locke, Business Services Office
Charlaine McKenzie, Senior Investigator
Armando Melendez, Business Services Office
Brian Murray, M.D., Medical Consultant
Kelly Nelson, Legislative Analyst
Kathleen Nicholls, Investigations Area Supervisor
Deborah Pellegrini, Chief of Licensing
Paulette Romero, Associate Analyst
Eric Ryan, Investigator
Kevin Schunke, Regulation Coordinator
Anita Scuri, Department of Consumer Affairs, Supervising Legal Counsel
Brian Stiger, Director, Department of Consumer Affairs
Cheryl Thompson, Executive Assistant
Renee Threadgill, Chief of Enforcement
Linda Whitney, Chief of Legislation
Vicki Williams, Investigator

Members of the Audience:

Bill Barnaby, California Society of Anesthesiologists
Elizabeth Becker, Inner Solutions for Success
Claudia Breglia, California Association of Midwives
Yvonne Choong, California Medical Association
Zennie Coughlin, Kaiser Permanente
Frank Cuny, California Citizens for Health Freedom
Karen Ehrlich, Midwifery Advisory Council
Julie D'Angelo Fellmeth, Center for Public Interest Law
Faith Gibson, Midwifery Advisory Council
Beth Grivett, California Academy of Physician Assistants
Vivien Hara, Deputy Attorney General
James Hay, M.D., California Medical Association
Marla Hicks, Nizhoni Institute
Alfredo Hueso, Member of the public
Terry Jones, Deputy Attorney General
Connie Merritt, Nizhoni Institute
Brett Michelin, California Medical Association
Carlos Ramirez, Senior Assistant Attorney General
Kayti Ricker, Nizhoni Institute
Gerri Ryan, Nizhoni Institute
Amara Sheikh, Member of public
Farzana Sheikh, Member of public
Rehan Sheikh, Member of public

Taryn Smith, Senate Office of Research
John Toth, M.D., California Citizens for Health Freedom
Ellie Vannatim, Cooperative of American Physicians, Inc.
Sandi Villafana, Nizhoni Institute
Jeffrey Vincent, Deputy Attorney General
Brian Warren, Department of Consumer Affairs
Sandra Waters, Federation of State Medical Boards

Agenda Item 3 Pending Litigation
Pursuant to Government Code Section 11126(a), the Board went into closed session at 9:12 a.m. to discuss pending litigation in the matter of case number 34-2008-80000044 and case number RG08374245.

Open Session:
The Board reconvened in open session at 9:44 a.m.

Agenda Item 2 REGULATIONS – PUBLIC HEARING
Ms. Yaroslavsky opened the public hearing on the proposed regulations to amend section 1316 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 proposal would amend the regulation which incorporates by reference the disciplinary guidelines entitled *Manual of Disciplinary Guidelines and Disciplinary Orders*. These amendments are being changed to reflect changes in the law, clarify existing language, and make other technical changes to reflect the current probationary environment. For the record, Ms. Yaroslavsky stated the date was October 30, 2009; the hearing began at approximately 9:45 a.m.

Ms. Scuri noted a staff memo regarding comments received from the Office of the Attorney General and two proposed changes to the language of the Disciplinary Guidelines to address these comments are included in the packet. Additional comments from the California Medical Association were distributed to the Members prior to the meeting. Ms. Scuri noted written comments not submitted by the October 26, 2009 deadline could be accepted at today's hearing.

Yvonne Choong, California Medical Association (CMA) presented concerns relating to due process in the proposed regulations, specifically with regard to Section 9 (Controlled Substances – Abstain from Use) and Section 10 (Alcohol – Abstain from Use) and the Board's authority to order the cessation of medical practice in the event of a positive biological fluid test for certain substances. CMA believes licensees under probation should be accorded a pre-deprivation hearing on the issue to determine whether the licensee in fact imposes a danger to patients. If the Board believes the licensee poses a threat to patient care, it can take steps to prevent harm by seeking a temporary restraining order or interim suspension.

Elizabeth Becker, Inner Solutions for Success, provided suggestions for language to address Disciplinary Guideline 18: *Anger Management for Healthcare Professionals Program.* Ms. Becker suggested rewriting the guideline to have physicians participate in a psycho educational training program to address any pattern of disruptive behavior that constitutes unprofessional conduct, adding language that mandates a thorough psychiatric evaluation for physicians who

have an extensive documented history of disruptive behavior, and including a description of an acceptable training program and any required elements. In addition, she suggested using the Public Letter of Reprimand as a preventative resource in response to accusations of disruptive behavior. Ms. Becker suggested the term "anger management" in Guideline 18 is too narrow and should be broadened to include "disruptive behavior" since it more accurately reflects the issue the guideline is trying to address.

Ms. Threadgill indicated her agreement that the guideline should be broadened to include "disruptive behavior."

Dr. Carreon stated disruptive behavior should be addressed in medical school training when it is first identified in an individual, since these individuals frequently continue to have issues after they are licensed.

Julie D'Angelo Fellmeth, Center for Public Interest Law, provided comment on the CMA's concerns with Sections 9 and 10. She noted the regulations deal with terms and conditions of probation and apply to a physician who has already stipulated to discipline or has been found to have committed a violation with full procedural due process. In order for Sections 9 and 10 to apply to a physician, the Board has necessarily found the physician has a substance abuse problem that poses a risk to patients. A positive drug test while on probation is a probation violation and ought to result in an immediate cease practice.

Ms. Yaroslavsky closed the hearing. Ms. Schipske made a motion to adopt the regulations with the changes recommended by the Attorney General's Office related to the no solo practice prohibition and the addition of "in California" to Section 34, to delete proposed term 18 so it can be worked on by staff, and to authorize the Executive Director to adopt the regulation at the expiration of the 15 day comment period if there are no adverse comments. Dr. Salomonson seconded the motion. The motion carried.

Agenda Item 4 Approval of Minutes from the July 23-24, 2009 Meeting
Dr. Gitnick made a motion to approve the minutes from the July 23-24, 2009 meeting. Ms. Schipske seconded the motion; motion carried.

Agenda Item 5 Public Comment on Items Not on the Agenda
Bill Barnaby, California Society of Anesthesiologists (CSA), addressed the Board on the physician supervision of certified registered nurse anesthetists (CRNAs) in the interest of patient protection. He noted the Governor wrote a letter on June 1, 2009 to Medicare opting California out of the long standing physician supervision rule, without notice or explanation to the interested parties. A 2001 Medicare regulation allowed states to opt out of the physician supervision regulation under certain conditions, including the requirement that it be consistent with state law and that there must be consultation with the boards of medicine and nursing in each state on questions of patient access and quality of anesthesia care. CSA and the Legislative Counsel do not believe either of these conditions has been met. CSA asked the Board to include this issue on the next agenda for a substantive exploration, analysis and determination of whether any Board action is necessary.

Sandra Soto –Hueso spoke in support of permitting physicians to offer alternative cancer treatments, including nutritional and vitamin therapies.

Yvonne Choong stated CMA supports the CSA on the issue of physician supervision of nurse anesthetists. She offered CMA's assistance and encouraged the Board to form an advisory committee to study the issue further.

Frank Cuny, California Citizens for Health Freedom (CCHF), stated current law makes it a criminal offense for a licensed physician to offer anything other than radiation, chemotherapy, or surgery to cancer patients. This limits physicians who want to offer integrative treatment of cancer and encourages patients to go into Mexico to receive integrative treatment they cannot receive in California. He noted CCHF has introduced several bills on the legalization of alternative treatments in the Legislature, however the bills have been repeatedly defeated. Mr. Cuny believes the Board is the one body with the ability and authority to successfully put a bill forward in support of alternative medicine. He asked the Board to consider reactivating its committee on alternative medicine or adding it as an agenda item for a future Board meeting.

Dr. John Toth and Alfred Hueso, CCHF, also spoke in support of legalizing alternative cancer treatments and integrative care.

Rehan Sheikh requested that the Board develop a process to review the quality of their decision making before bringing accusations against physicians or would-be physicians. He is concerned there are not enough checks and balances in the process and finds some practices troublesome.

Marla Hicks and Gerri Ryan, Nizhoni Institute, reported their midwifery education program has applied for accreditation with the Board so their students can apply for licensure. They are concerned that the accreditation process is unclear and want to know if there is anything else they are required to submit in order to move the approval process forward. Ms. Yaroslavsky recommended they work with staff.

Agenda Item 6 Board Member Communications with Interested Parties

Ms. Yaroslavsky reported she has spoken with members of the Legislature. She has addressed letters to both the Governor, through his legislative liaison Jennifer Kent, and to legislators in support of legislation the Board supports. She noted she has also appeared before committees of the Legislature, as appropriate, to advocate on behalf of Board-sponsored legislation. Ms. Yaroslavsky provided a list of potential participants and spoke directly to individuals in support of participation in the Executive Committee meeting on October 1, 2009 to address the licensing backlog. She spoke with Don Crane, President and CEO of California Association of Physician Groups during a social occasion where they also discussed the Board's mission and the possibility of future opportunities. Ms. Yaroslavsky reported she had a conversation with CMA to provide a declaration relative to the suit they filed against the Governor and other statewide officials on the furloughs.

Agenda Item 7 President's Report

Ms. Yaroslavsky reported she was invited to participate in a press conference with State Assemblymember Hector De La Torre at the AltaMed Clinic in East Los Angeles. She met with both a former and recent recipient of the Steven Thompson Loan Repayment Program. Ms. Yaroslavsky thanked Assemblymember De La Torre for carrying the Board's legislation to support the $25 fee on doctors' licenses to ensure a more permanent stream of revenue to better meet the growing need and assure access to care in underserved communities. She also recognized Dr. Gitnick for his work to develop the program and for his efforts to promote access to care.

Ms. Yaroslavsky has directed that all non-essential meetings be suspended until the licensing crisis is resolved and encouraged any and all staff available and willing to devote extra time to assist in the elimination of the backlog by the end of 2009. Hence, there will be no Education Committee report this quarter. On behalf of the entire Board, she thanked the staff for their extraordinary efforts in addressing the backlog and for pulling together as a team.

Ms. Yaroslavsky introduced Brian Stiger, Director, Department of Consumer Affairs (DCA).

Mr. Gitnick noted the Steven Thompson Loan Repayment Program was a joint effort with CMA and stated it would not have been realized without their co-sponsorship and hard work.

Agenda Item 8 Executive Directors Report

A. Budget Overview and Staffing Update

Ms. Johnston reported the budget is currently on target. She noted that overtime is at 155% of the budgeted amount due to the commitment to resolve the licensing backlog and the Board's direction to utilize any and all staff. The budget has been approved by both the DCA and the State and Consumer Services Agency (Agency). She noted the line item for rent is at 75% due to the front loading of the contract. Ms. Johnston stated the Board does not anticipate exceeding its budget.

Currently, the Board's vacancy rate is at 8% due to the efforts of staff, specifically Deborah Pellegrini, Renee Threadgill and Kimberly Kirchmeyer. Ms. Johnston reported assorted staff from all program areas have volunteered, been trained, and are working late and on weekends to assist in eliminating the licensing backlog. She thanked staff for their hard work and positive attitude.

Ms. Johnston noted Mr. Stiger chairs the SB1441 Substance Abuse Coordination Committee which is working to formulate uniform and specific standards that healing art boards will be required to use in dealing with substance abusing licensees. Ms. Johnston serves on this committee and Ms. Kirchmeyer serves on one of the workgroups.

B. Update on Board Evaluation

Ms. Johnston reported the contract to conduct an evaluation of the Board has been awarded with a November 1, 2009 start date. The report to the Board is scheduled for the July 2010 Board meeting.

Dr. Gitnick commended staff for undertaking a formal self-assessment of the structure, function, and activities of the Board. He indicated reviews should be required every two years in cooperation with Agency and should utilize the kinds of approaches used by the State Bar of California, encompassing the same level of depth and detail as that which was included in the Enforcement Monitor's report.

Agenda Item 10 Presentation on Federation Credentials Verification Service (FCVS)
Sandra Waters, Consultant with the Federation of State Medical Boards, delivered a presentation on credential verification services available through FSMB. According to the number of verifications that FSMB processes in a year (dating back to 2004), 60% of California license applicants are international medical school graduates and 40% are domestic graduates. Under FCVS, an initial application costs $345 and subsequent applications cost $90; these costs are born by the physician. The average processing time for an international graduate is 96 days with a standard deviation of 26 days; for a domestic graduate the average processing time is 78 days with a standard deviation of 16 days. In 2008, FSMB employed 90 people to create 18,000 verification packages. Ms. Waters reported 63 of the 69 physician licensing boards accept FCVS; 14 of these boards require FCVS. Decisions as to whether or not to license an applicant are left to the individual boards; FCVS merely collects and verifies all of the applicant information.

Dr. Gitnick asked if FSMB had sufficient staff to handle the 6,000 applications that the Board processes each year. Ms. Waters indicated they do not currently have enough staff, but could increase staffing levels.

Agenda Item 9 Legislation

B. 2009 Legislation
Ms. Whitney reported effective October 23, 2009, the California Bureau of Naturopathic Medicine became the Naturopathic Medicine Committee under the Osteopathic Medical Board of California.

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 120 (Hayashi) Peer Review: 809 Sections
This bill was vetoed. The Governor's message indicated he has encouraged the authors and interested parties to work with DCA on streamlining and improving the peer review process in a way that increases the overall effectiveness.

AB 175 (Galgiani) Telemedicine: Optometrists
This bill was signed into law.

AB 245 (Ma) Disclosure Verification
This bill was vetoed. The Governor stated this bill reduces transparency for consumers who deserve to know if their provider has been convicted of misdemeanors or felonies.

AB 252 (Carter) **Cosmetic surgery: employment of physicians**
This bill was vetoed. The Governor indicated this bill was duplicative of existing law and the Medical Board already has significant legal authority.

AB 356 (Fletcher) **Radiological Technology: physician assistants**
This bill was signed into law. The bill allows physician assistants to taken an examination to become certified and issued a permit. The Board will be working with the Physician Assistant Committee to assist in the implementation.

AB 501 (Emmerson) **Licensing: Limited License, Use of M.D., Fee/Fund**
This Board-sponsored bill was signed into law. The bill addresses a limited license, the use of M.D. by individuals in medical training, and allows the Board to have a four month fund reserve instead of two.

To implement this bill, licensing staff will work with legal counsel to develop many of the requirements on the limited license issue. Budget staff will examine the fee cap. Implementation issues may be brought back to the Board at the January 2010 meeting. Fund condition projections will be revised. Medical schools, hospitals and training programs will be notified regarding changes in the use of M.D.

The following bills were held as two year bills:

AB 526 (Fuentes)	**Public Protection and Physician Health Program Act of 2009**
AB 583 (Hayashi)	**Disclosure of Education and Office Hours**
AB 646 (Swanson)	**Physician employment: district hospital pilot project**
AB 648 (Chesbro)	**Rural Hospitals: physician employment**
AB 933 (Fong)	**Worker's Compensation: utilization review**
AB 1310 (Hernandez)	**Healing Arts: database**

The Board will reconfirm its positions on the various bills in January 2010 if any changes have been made.

AB 1070 (Hill) **Enforcement Enhancements: reporting, public reprimand**
This Board-sponsored bill was signed into law. The bill addresses reporting public reprimands, certified records, and the extension of the vertical enforcement/prosecution model. The Board will work with Discipline Coordination Staff so the Board President may be included in disciplinary panels as of January 1, 2010 if there is not a full complement of Board members. Enforcement staff will address new procedures which must be in place by January 1, 2010 requiring certified medical records. Enforcement staff and administrative law judges will be notified of changes that now allow the recommendation of education and training to be included in public reprimands. Any necessary updates to the Disciplinary Guidelines will also be addressed. Licensing staff will develop the method by which information regarding licensee specialty board certification is obtained upon initial license. The law requires all new license applicants to complete the survey form; on-line application systems and the website will be adjusted accordingly. A facilitator will be contracted to conduct team building among the vertical enforcement/prosecution model parties.

AB 1071 (Emmerson) Sunset Extension
This bill, which extends the Board to 2013, was signed. Some type of evaluation of the Board will be done through the legislative process to make a determination of any areas that require attention. This required sunset evaluation report will be prepared in late 2011 into 2012.

AB 1116 (Carter) Cosmetic Surgery: physical examination prior to surgery
This bill, which is a codification of existing law, was signed and will require little to implement.

SB 132 (Denham) Polysomnographic Technologists
This bill was chaptered on October 23, 2009. The bill requires significant implementation, including the development of regulations relative to the qualifications of various polysomnographic classifications as well the establishment of a registration program for technologists who work in sleep centers. A budget change proposal (BCP) has been submitted to Agency. Licensing staff will need to meet with a variety of interested parties.

The following bills were held as two year bills:
SB 294 (Negrete McLeod) Healing Arts: Enforcement
SB 389 (Negrete McLeod) Fingerprinting
SB 726 (Ashburn) Hospitals: employment of physicians; pilot project revision

SB 470 (Corbett) Prescriptions: labeling
This bill was signed. The Board will stay in close contact with the Pharmacy Board to provide assistance as needed.

SB 674 (Negrete McLeod) Outpatient settings / Advertising
This bill was vetoed. The Governor would like the medical community to work with his Administration to find consistency in oversight of outpatient settings. Ms. Whitney reported Senator Negrete McLeod has asked the Board to implement the section of the bill dealing with the appropriate level of physician availability within clinics and other settings for elective cosmetic procedures under the Board's current authority.

The Board previously discussed this issue at the July 2009 meeting and determined an advisory committee could be established. Ms. Whitney suggested the following associations could nominate a member by December 1, 2009 to sit on the advisory committee: CMA, California Society of Dermatology & Dermatologic Surgery (CalDerm), American Society for Dermatologic Surgery, and plastic surgery societies. An initial meeting could be held at the January 2010 Board meeting to lay out a general scope for the committee.

Dr. Moran made a motion to create an advisory committee to review physician supervision with laser and other cosmetic procedures; Ms. Chang seconded the motion; motion carried.

SB 819 (B&P Committee) Omnibus: provisions from 2008
This bill was signed. The technical changes encompassed in the bill will be implemented.

SB 820 (Negrete McLeod & Aanestad) Peer Review
This bill was vetoed. Staff will work with the DCA to improve or streamline peer review.

SB 821 (B&P Committee) Omnibus: MBC provisions
This bill was signed. The repeal of Section 821.5 of the Business and Profession Code dealing with diversion is significant in that it directs the reporting of the formal investigation of a physician who may have a disabling condition be done through the peer review process, rather than through a diversion program administrator.

C. Consideration of 2010 Proposed Legislation
Ms. Whitney directed Members to the "Proposed Legislation" section of their Legislative Packets. She introduced a proposal to amend the law regarding public disclosure and posting to include court orders to place practice restrictions on an individual when there are criminal proceedings (PC 23s) pending. While the Board currently has the authority to post actions taken against physicians by the Board, this amendment would allow certain court actions to also be posted for consumers. Ms. Whitney reported AB 245, which addressed public disclosure, was vetoed this year; any legislation put forward will heed the Governor's veto message on that bill. Dr. Moran made a motion to pursue the public disclosure legislation; s/Zerunyan; motion carried.

Ms. Whitney introduced a proposal dealing with default decisions which would amend the current law to authorize the Executive Director to adopt stipulations to surrender a license when the law requires a mandatory revocation (such as for aiding and abetting in auto insurance fraud, and being required to register as a sex offender). Dr. Moran made a motion to pursue the default decision legislation; s/Salomonson.

Brian Stiger, Director, DCA, supports this concept as it allows the disciplinary process to be expedited. Ms. Yaroslavsky called for a vote; the motion carried.

With regard to Peer Review legislation, Ms. Whitney noted amends to the 805 Sections of the Business and Professions Code were vetoed in 2009. Rather than sponsoring a bill, the Board will work with the Department, authors, and interested parties on their peer review proposals and will request technical and other amendments as appropriate.

Ms. Whitney introduced a proposal to expedite the complaint process. The recommendation is to remove the need for an upfront specialty expert to review complaints prior to the complaint being sent to the field. This would allow for a general practice medical consultant to review the medical records, statements from the physician, and the standard of care, then to make a recommendation to close or forward to the field for investigation. This would expedite the complaint triage process, reducing the processing time needed to make the decision to close or forward the complaint to the field. SB 294 (Negrete McLeod) contains a number of sections to help the boards expedite complaint and enforcement processes. Administration may also be forwarding ideas to expedite these processes. Hence, the Board's suggestions might be incorporated into either of these other bills. Ms. Schipske made a motion to pursue the proposal; s/Moran.

Dr. Levine voiced her concern that making speed (rather than quality) the priority in the initial review may create problems given the complexity of medical practice. Dr. Salomonson agreed and was not sure if a generalist review really would be faster. Ms. Threadgill reminded the

Members that the upfront review was only triage to determine if the case should proceed on to investigation. If there were any question, further review would be sought. In most cases, Ms. Threadgill stated, the generalist can determine what needs to be done based on the allegations and respondent statements; once referred to the field, the case would still be required to go through a specialty review process. Currently, the upfront specialty reviewer does not have the benefit of all the materials and records available on the case, limiting the quality of any upfront review.

Dr. Low echoed the concerns of Dr. Levine and Dr. Salomonson, expressing his discomfort with a generalist making a determination on a specialty. Mr. Zerunyan asked if a lack of specialty reviewers to conduct initial reviews was increasing enforcement timelines. Ms. Threadgill indicated the delay was due to the Complaint Unit having to gather additional records up front and the complaint first having to be reviewed by a generalist in order to determine what type of specialist must conduct the upfront review. She noted if the complaint is sent to the field, it is reviewed again by a specialist who issues the report and would be called on to testify. This routing of a complaint from an upfront generalist to an upfront specialist to a specialist to conduct the actual review increases enforcement timelines, which the Board has directed staff to reduce.

Ms. Yaroslavsky asked staff to take the comments by Members under advisement and collect information on how much extra time requiring an upfront specialty expert review adds to the process and, conversely, how much time would be saved by allowing a generalist to conduct the upfront review. She asked staff to present this information to the Board at the January Board meeting so they may make an informed decision on the legislative proposal. The motion was withdrawn and tabled until the January meeting.

Ms. Scuri provided clarification on the current law's requirements. Julie D'Angelo Fellmeth, Center for Public Interest Law and former Enforcement Monitor to the Board, noted the specialty reviewer requirement went into effect on January 1, 2003. In her Enforcement Monitor Report, she examined and quantified the impact of this requirement. Ms. Fellmeth suggested staff pull the report and update the data.

Ms. Whitney introduced a proposal that included a variety of changes that would enhance the Licensing Program and expedite licensure. Changes and enhancements may also need to be made to laws related to other licensees and registrations. Due to the current priority assigned to addressing the licensing backlog, these changes have not been fully developed, but will be reviewed and discussed at the January Board meeting. Amendments requested by the Midwifery Advisory Council will also be addressed at the January meeting.

Ms. Whitney reported on October 21, 2009 Dr. Hernandez held a hearing on primary care provider shortages. Strong interest was expressed in developing processes to expedite the licensing of physicians.

Dr. Gitnick made a motion that the Board recommend to the Department and Agency that a joint effort be made to sponsor legislation in 2010 that replicates Business and Professions Code

Section 6145B, but is modified to fit the Medical Board and reflect dates appropriate for the Board's review. This would be a bill requiring a biennial performance audit by the Bureau of State Audits of the Board's core functions: licensure and enforcement. Dr. Low seconded the motion; motion carried.

During public comment, Jim Hay, CMA, reported the Executive Committee of the CMA voted unanimously to take any and all actions necessary to reverse the California Bureau of Naturopathic Medicine becoming the Naturopathic Medicine Committee under the Osteopathic Medical Board of California.

Mr. Hay also provided comment on the proposal to allow generalists, rather than specialists, to conduct the upfront review in deciding whether a case should be sent to the field, reporting CMA currently does not have a policy on where in the review process a generalist review would be acceptable. However, he noted at the most recent CMA House of Delegates meeting, a resolution was referred for study on this issue. A report will be issued by CMA, though probably not in time for 2010 legislation. Mr. Hay offered for CMA to work with the Board on this issue.

Agenda Item 11 Licensing Chief's Report

A. Demonstration of Web Application

Ms. Pellegrini, Chief of Licensing, reported a new tool is being developed that will allow applicants to check the status of their Physician and Surgeons License or Post-graduate Training Authorization Letter (PTAL) application online. The physician's Web Applicant Access System (WAAS) will allow greater responsiveness to applicants and will free up staff time for processing applications. Applicants receive an Applicant Tracking System (ATS) number after they submit their application and processing fee; applicants will access the WAAS through the Board's website using their assigned ATS number and will be able to see if the various required documents have been received and/or reviewed. Sean Eichelkraut and Sean Heaney, both of the Information Services Branch, provided a demonstration of how the WAAS will work. The WAAS is secure and available to applicants 24 hours a day. Beta testing will begin in November and the system will launch on December 1, 2009 with a link to WAAS from the Board's home web page.

B. Licensing Program Update

Ms. Pellegrini directed Members to the Licensing Program Report included in their packets which was presented at the October 1, 2009 Executive Committee Meeting. Ms. Pellegrini reported it is rare for an application to be complete upon its initial review, regardless of how long the application has been at the Board's office. Senior Staff Review cases typically involve recent drug or alcohol convictions or mental health issues in postgraduate training programs resulting in probation. These cases take additional time to collect and research information before a final decision on licensure is made. Ms. Pellegrini reported 42% of applications received at the Board are from international medical school graduates; while only 20% of issued licenses are to international graduates. Many of the international graduates' applications are for PTALs, rather than licensure, with many graduates applying for PTALs from several states and then proceeding to licensure in only one or two of those states. In reviewing the licensing statistics, she noted that

many of the pending applications are for those who have received a PTAL; these applications are held until staff is notified that the applicant is no longer seeking licensure in California or until they are licensed.

As a result of direction received at the Executive Committee meeting, Ms. Pellegrini reported the work on the licensing backlog has been accelerated with the objective to eliminate the backlog by December 30, 2009. Ms. Johnston and the Executive team have evaluated key Board functions and have deployed additional staff required to eliminate the backlog while simultaneously addressing the underlying problems that created the backlog. This aggressive approach will continue until all applications have been reviewed within 60 calendar days by April 2010. Additionally, all pending mail will be reviewed within three weeks of receipt. This will increase the number of applicants receiving PTALs and licenses and will enable staff to handle the annual influx of applications from residents and incoming fellows.

Ms. Pellegrini reported for the past month, staff has focused on hiring and training additional staff, setting individual and group goals and expectations, and integrating the new staff into the licensing unit. Six students plus staff from other functions have been trained to conduct initial US application reviews. Six additional staff have been hired, two to replace recently retired employees, and will begin reviewing International applications in November. With the addition of new staff and assistance from other department staff, there has been a 50% increase in the number of individuals reviewing US applications and a 40% increase in staff assigned to review international applications. Key milestones for the elimination of the backlog are listed on page 113 of the Board packet. Thus far, staff has exceeded all the goals set for the backlog elimination. Since October 1, 39% of the backlog has already been eliminated.

As noted in the report, an outside consultant team was retained in June 2009 to review the licensing program's systems and processes in order to improve efficiencies and ensure a backlog situation does not recur. The consultants are also reviewing the licensing renewal process and the workings of the Call Center for maximum effectiveness and efficiency. In addition, the consultants have conducted an analysis and assessment of FSMB's services, the AMA Profile, the GME Connect, and other state licensing programs. They have also worked with the Information Systems Branch to conduct data analysis and determine which reports can be automated (rather than having to be hand counted each month as is currently the case). Ms. Pellegrini indicated her pleasure with the consultant's work so far.

At the October 1 meeting, Ms. Pellegrini reported the Board asked staff to provide a recommendation on the best way to process applications. Currently, applications are processed in date order received. An automated system that would enable applications to be placed in a different priority order does not currently exist; applications must be manually reviewed in order to determine the reason the individual is seeking a PTAL or license. California residents needing licensure by July 1 to continue their training are identified by the GME Directors to the Board; these applicants have, in the past, been given top priority, with incoming fellow and residents receiving the next highest priority followed by all other applications in the date order they are received. This priority system will continue to be utilized unless directed otherwise by the Board.

C. Report on Graduate Medical Education Administrator's Meeting

To increase communication with GME programs, Ms. Pellegrini noted meetings were held on October 6, 2009 at UC Irvine and on October 8, 2009 at Kaiser Permanente in Oakland. Both meetings were well attended by GME staff and program directors, as well as by a physician recruiter and some applicants. An overview of the licensing backlog and the Board's efforts to address the situation, information on the WAAS, and the Board's outreach program conducting on-site licensing fairs were all provided at the meeting. The meetings concluded with a question and answer session. Several suggestions were given that mirrored existing plans to improve licensing processes, including the development of licensing modules with disciplinary guidelines for the applicants and the need to revise the application and instructions (particularly with regard to conviction expungements and related issues). Ms. Pellegrini reported they have received favorable feedback from the meetings and anticipate conduct GME meetings again in the future.

Dr. Salomonson expressed surprise over the low number of applications submitted that are complete and ready for licensure (only 2%) and over the increase in the number of applications requiring senior review due to problems (from 180 to 408 in the past 2 years). She suggested these numbers indicate either the quality of applicants is decreasing or staff is to be congratulated for ferreting these problem applicants out. Dr. Salomonson saw this as evidence of the Board providing public protection against problem doctors.

With regard to Dr. Salomonson's first comment on the low number of applications ready to proceed to licensure, Ms. Pellegrini noted staff all agree the license application and accompanying instructions need to be updated. The website can also be enhanced with a checklist for the applicants with a date that information or materials have been requested from the various reporting entities. She reported the issues do not always lie with the applicant, but, rather, with other organizations or individuals completing the various forms correctly. As to the number of applications requiring senior review, Ms. Pellegrini noted the criteria for level 2 senior review have not changed. The criteria for level 1 senior review were expanded, perhaps too broadly, and the policy and procedure manual more clearly spell these criteria out making staff more aware of them.

Dr. Salmonson noted FBI and Department of Justice record checks are required for US citizens, but international applicants do not fall under these jurisdictions, perhaps providing an unequal assessment of applicants. Ms. Pellegrini responded this was, in essence, true, but the Board was limited in how much it was able to do.

In addition to interviewing licensing staff for their report, Ms. Yaroslavsky suggested the consultants also speak with those individuals from other departments who are providing assistance in reviewing applications.

Ms. Yaroslavsky appointed a Licensing Committee to continue the Board's oversight of the licensing function. The committee will review policies, procedures, and recommendations that will be forthcoming to the Board on a regular basis. She expressed the importance of the Board having the ability and time to address these important issues by interacting with staff and making suggestions and recommendations on policy. She asked Board Members to volunteer if they would like to serve on this committee by speaking with her later.

D. Midwifery Advisory Council Update

Ms. Pellegrini reported the Midwifery Advisory Council (MAC) was held on August 20, 2009 in Sacramento. Faith Gibson, MAC Chair, reported the Council reviewed information collected on how other state boards deal with midwifery remedial education for quality of care issues. The MAC determined the PACE program would not be a good fit for midwives; however, a continuing education process, which is already in statute, clinical proficiency exams, and a practice monitor program were considered appropriate options. Further consideration of remedial training will continue at the January 2010 MAC meeting with a goal of returning to the Board with a proposal.

The MAC also worked on fine tuning the data collection form used for the 2009 Licensed Midwife Annual Report. Ms. Gibson expressed her regret that the form was not beta tested before distribution since errors were detected in the collected data, particularly with regard to infant deaths. Additional work on the collection process is required to produce accurate and useful data.

Claudia Breglia, California Association of Midwives, noted the report to the Legislature stated there were 9 infant deaths and 5 maternal deaths. The report states the data does not specify whether the death is fetal, intrapartum or neonatal and should not be used in creating policy. She stated the data reporting a maternal death rate of 5 is a misrepresentation of the actual data gathered and is contradicted by other collected data. Ms. Breglia was concerned this misleading data is part of the public record and may negatively affect future policy and skew research. She asked the Board's to replace the line "complications resulting in maternal mortality – 5" with "maternal deaths reported – 0" everywhere this data appears in the public record. In addition, she asked the Board to authorize the MAC to hire an epidemiologist to review the wording of the law that specifies which questions must be asked on the questionnaire and recommend necessary changes, and train volunteers to conduct in-service training for midwives on how to properly complete the form.

Karen Ehrlich, Midwifery Advisory Council member, echoed Ms. Breglia's concerns over the inaccuracies in the collected data with regard to maternal deaths. She requested that a disclaimer be sent to the Legislature citing the report's flaws and cautioning against using the data in making public policy decisions, and that an epidemiology consultant be utilized in developing future questionnaires. The MAC has been in contact with the Office of Statewide Health and Planning and Development (OSHPD) with regard to the report.

Agenda Item 18 Access to Care Committee Update and Consideration of Committee Recommendations

Dr. Gitnick reported the Access to Care Committee met on October 29, 2009 where they received an update on the Board's telemedicine pilot program which was launched in July 2009. The Board is partnering with UC Davis in a 3-year program in response to AB 329 which required the Board to establish a pilot program to expand the practice of telemedicine for patients with chronic illnesses. The UC Davis team is headed by Dr. James Nuovo. The program aims to improve diabetes care management and resources for patients and primary care providers in rural underserved communities in Northern California as a chronic disease model.

The Committee also received an update on the September 2, 2009 Malpractice Insurance Interested Parties meeting where the report on malpractice insurance for physicians providing voluntary unpaid service. All stakeholders were interested in protecting physicians who want to volunteer in medically underserved areas of the state and commended the Board for looking into this issue. Dr. Gitnick reported at least 3000 doctors have applied for a volunteer license.

Based on the Committee's vote, Dr. Gitnick made a motion to establish a special task force to address the issues and recommendations of the Malpractice Insurance Report, assess the need for legislation and possibly develop a placeholder bill by February 28, 2010, and include representatives from the Office of the President of the University of California, the California Medical Association, the American Hospital Association, key insurers, and the Medical Board on the task force. The motion was seconded by Dr. Duruisseau; motion carried.

Agenda Item 12 Presentation on Controlled Substance Utilization Review and Evaluation System (CURES)

John Massoni, Bureau of Narcotic Enforcement within the Department of Justice, provided an overview and demonstration of the Controlled Substance Utilization Review and Evaluation System (CURES). The enhanced prescription drug monitoring program is web based and allows registered health care practitioners, law enforcement, and regulatory bodies to access patient prescription history information at the point of care. This tool assists in identifying drug seeking patients and facilitates treatment for these individuals. Practitioners must first register and provide validating documents before accessing the CURES system. Mr. Massoni noted the state of Nevada mandates that prescribers check the state's prescription drug monitoring system before issuing prescriptions; he believes this requirement has reduced drug seeking activity.

Beth Grivett, California Academy of Physician Assistants, asked if the registration was a one-time process, regardless of one's standing with the licensing board. Mr. Massoni responded the registration was currently a one-time process, though the system would allow a registrant to be removed if there were a loss of licensure.

Agenda Item 13 Enforcement Chief's Report

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

Ms. Threadgill requested approval of 18 Orders Restoring License Following Satisfactory Completion of Probation, 16 Orders Issuing Public Letters of Reprimands, and 6 Orders for License Surrender During Probation. Dr. Levine made the motion; s/Schipske; motion carried.

Ms. Threadgill directed Members to pages 136 and 137 of their packets for a breakdown of the type of violations that result in physician discipline as requested by Ms. Yaroslavsky. She reported the most frequent violation is for incompetence and negligence.

C. Expert Utilization Report

Ms. Threadgill directed members to page 138 of their packets for the Expert Utilization Report which reflects a breakdown of experts by specialty during the past quarter.

Ms. Whitney reported one of the Board's expert reviewers, a board certified orthopedic surgeon, provided the Board with an expert review of the quality of care of another board certified orthopedic surgeon. The expert reviewer opined that certain aspects of the care provided by the physician in question did not meet the standard; an accusation was filed, a hearing held, and the expert testified. The administrative law judge found that the allegations against the accused physician were not supported by clear and convincing evidence, but found some aspects of the care were sufficiently deficient to warrant a public letter of reprimand. The Board panel adopted the recommendation. The accused physician subsequently filed a grievance against the Board's expert with the certification board, alleging the expert had violated the certification board's standards of professionalism for expert witness testimony by its members. This included the allegation that the Board's expert had provided biased and false testimony. The expert sought assistance from the Medical Board and was informed that the Board was unable to assist with this grievance, as it did not create a risk of civil liability. The expert sought assistance from his medical group which was able to provide assistance. The expert is hopeful that the grievance will be rejected, as the administrative law judge did not find that the expert's testimony was either biased or untrue.

Ms. Threadgill noted this is not an isolated case; staff is aware of other instances. She stated there is no law to protect the Board's experts from having a grievance filed when the expert has provided an honest opinion in review of the record and testimony, nor is there an avenue to provide legal counsel from the state, should the expert need legal representation. Physicians who provide expert reviews for the Board do so in service to patients and the medical community, not for the small amount of money paid to them by the state. Should the certification board fail to reject the grievance, the Medical Board will face a growing concern among its current roster of experts and could lose many to concerns that they, too, may become victims of such a grievance. Dr. Duruisseau made a motion to support and sponsor legislation to resolve the issue and to direct Ms. Whitney to work with the interested parties to move this issue forward in the 2010 legislative session; Ms. Chang seconded the motion.

Mr. Zerunyan asked if it were possible to grant the experts immunity from such grievances. Ms. Scuri noted there were existing protections for liability to defend experts, but only in civil matters. The suggestion is to broaden the protection to include non-civil matters.

Dr. Chin asked how individuals are qualified by the Board to be considered experts, such that a specialist who has become outdated would be ineligible. Ms. Threadgill reported the Board adopted criteria for its experts, including a minimum of three years of board certification in their specialty. In addition, the specialist's curriculum vitae is reviewed.

Ms. Yaroslavsky called for the vote; motion carried (yes-10, no-1).

B. Enforcement Program Update

Ms. Threadgill noted the Enforcement Program has maintained an overall vacancy rate of 8%; this does not include vacant positions with identified candidates moving through the selection process. She reported this rate is expected to rise due to pending retirements at the end of 2009.

The DCA has developed an enforcement model which will change how enforcement cases are handled within DCA's boards and bureaus. The new enforcement model's goals are increased accountability, greater efficiency, and putting consumers first. Many process improvements can be implemented through administrative changes, though some changes will require legislative action, such as requiring mandatory reporting for all healing art board licensees and employers. Some improvements require control agency approvals, such as allowing the use of non-sworn investigators. The Department and healing arts boards are working on proposals to obtain the resources to complete enforcement actions within 12 to 18 months, as compared to the current two and a half year timeline under the existing system.

Ms. Threadgill reported the Information Systems Branch has been working diligently on systems requirements for the new CRIMS project (a new Enforcement IT system). The Department is also exploring options for a more comprehensive IT solution to replace the antiquated CAS and ATS systems with a fully integrated licensing and enforcement system. Staff is working with DCA to ensure the new system will meet the needs of the Board.

Operation Safe Medicine (OSM) is progressing as planned. The team will be moving into a new office in San Dimas which will allow them to work together more effectively. The supervising investigator has been training the investigators and working with local law enforcement agencies on the role and mission of OSM. Preliminary discussions with the Health Authority Law Enforcement Team (HALT) in Los Angeles County have occurred to explore the sharing of training and resources to aid OSM in the investigation of unlicensed medical practice. Ms. Threadgill reported the corporate unlicensed practice of medicine continues to be one of the biggest challenges for OSM.

Ms. Threadgill previously reported on her dissatisfaction with the Investigator Pay Study Report; the vendor has provided the Board with further review and concluded that a new investigator classification would not be appropriate. Recommendations were made for providing investigators with additional resources, including creating geographic pay differentials for the more competitive labor markets and for training such as field officer training assignments. Consolidating the investigator and senior investigator class into a 3-deep class is another option that will be considered.

During a 12 working day period in September 2009, the Discipline Coordination Unit (DCU) filed 21 accusations and/or statement of issues, processed 18 final decisions, sent 4 cases to panels for vote, issued 8 reprimands, issued 1 probationary certificate, processed 7 suspension orders, and prepared 38 alerts, all with only 4 analysts working at the time. Ms. Threadgill commended the DCU staff for their extraordinary effort.

Brian Stiger, Director, DCA, indicated media reports on the lengthy enforcement timelines within the Board of Registered Nursing spurred the Department to analyze timelines for the other

healing arts boards where they discovered lengthy timelines were not unusual. The Governor and the Department found these timelines unacceptable and made the development of a new enforcement model the Department's highest priority. The new model will reduce the average enforcement timeline from over 3 years down to 12 to 18 months. This model will require significant changes and, as previously reported by Ms. Threadgill, will focus on increasing accountability, improving efficiency, and putting consumers first.

As an example, Mr. Stiger reported most healing arts boards use outside investigators from the Division of Investigation to investigate their cases. The Department would like to allow the boards to hire their own investigators as the Medical Board does. However, the Department is not convinced the investigators need to be sworn peace officers, particularly due to competition for peace officers from other entities and the amount of time required for background investigations. He believes a blend of peace officers and non-sworn peace officers will provide the best approach. Mr. Stiger supports a geographic pay differential and offered his support in moving this idea forward.

For increased accountability, the Department believes the boards should be able to hire their own paralegals and prosecutors, rather than relying on the Department of Justice. This would focus accountability within DCA, rather than spreading it among multiple agencies. Mr. Stiger reported the Department is hiring an Enforcement Compliance Officer who will be responsible for conducting audits of the DCA board and bureau enforcement programs every three years. Performance measures for the enforcement programs will also be established, with boards, executive officers, and the Director accountable for meeting those measures. In addition, professional development via an "Enforcement Academy" will be made available for enforcement staff beginning in Spring of 2010; the Department will bear the cost of this training.

To improve efficiency, the Department wants to ensure the programs have the authority to gather records without using subpoenas; this will require legislative action. There are plans to implement consequences to individuals who refuse to submit records to the boards. The Department will also seek authority for executive officers to sign off on default decisions. Mr. Stiger noted a proposal is being developed to obtain resources to create a new database to replace the antiquated CAS and ATS systems. The Board's and Department's IT staff are working closely on this project. A Best Practices Committee comprised of individuals from different boards are researching best practices throughout all DCA programs and as well as in other states.

The Department is working on determining the appropriate burden of proof to take action against a license. Currently, the burden of proof is clear and convincing standards, a very high standard. Lowering the standard to a preponderance of evidence will be considered as a possible option in order to ensure consumer protection.

Mr. Stiger reported the Department believes all diversion programs should be eliminated by 2012, placing individuals on probation for close monitoring rather than diversion. Finally, the Department would like to host all enforcement divisions on the web so consumers can clearly choose professionals using provided information.

Mr. Stiger indicated he is working closely with the various executive officers and has found broad support for the described changes. He stated he will keep all boards updated on the Department's progress.

Agenda Item 14 Vertical Enforcement Program Report

Carlos Ramirez, Office of the Attorney General, reported there have not been any important developments in the Vertical Enforcement (VE) Program since the last meeting.

Ms. Threadgill referred Members to the Investigation and Prosecution Timeframes chart on page 142 of their packets and noted there has been an encouraging reduction in the average and median number of days for various enforcement timelines during the third quarter. Nine of the thirteen offices have shown a reduction in the case age average since October 1, 2009.

Staff has been meeting with Mr. Ramirez and the Supervising Deputy Attorney Generals (SDAGs) to arrange joint training for the DAGs and the investigators.

Mr. Zerunyan asked if the data included cases that remain open even though the DAG has advised closing them due to insufficient evidence, since such cases would impact timeline averages. Ms. Threadgill responded that such cases exist due to a disagreement on the viability of particular cases; a dispute resolution protocol has been established to deal with these instances, which are rare.

Dr. Moran congratulated staff on the re-establishment of the Operation Safe Medicine program in Southern California and asked when OSM would be expanded to Northern California. Ms. Threadgill responded that staff will be allowed to request additional positions once all other investigator vacancies are filled; however, since these vacancies continue to exist, she is unsure when the program will be able to expand.

Agenda Item 15 Proposal for Continuing Medical Education Committee

Janie Cordray, Board Research Specialist, reported the Board has expressed interest in reviewing the current Continuing Medical Education (CME) requirements to determine if they are sufficient and useful. California physicians are currently required to complete 50 hours of approved CME every two years as a condition of their license renewal. The *law* only requires that physician demonstrates no less than every 6 years that they have completed their required CME. The law places the authority and responsibility with the Board to determine the specific requirements for physicians and courses.

At present, the regulations are extremely broad, and grant credit for anything accredited "category 1" by approved providers. There is no requirement for external or self assessment or that coursework be specifically relevant to physicians' skill, experience or specialty. Because the law is so broadly written, the Board has tremendous latitude to determine requirements. The Board first adopted regulations in 1977, and there has been little substantive change since.

Staff is suggesting that the Board establish an advisory committee to study the subject. A symposium with appropriate experts, including representatives from the Federation of State

Medical Boards, among others, is proposed to be scheduled at or around the July Board meetings. The following subjects are suggested for discussion:

- Current California law and regulations, including the authority of the Board to set standards in regulation;
- Other states' laws and regulations;
- Other California health care practitioner licensees' laws and regulations;
- Current literature on the value of continuing medical education and best practices;
- The role of external and self-assessment in improving continuing education and continued competence;
- The Federation's work in Maintenance of Licensure and their *Guiding Principles*;
- The role of financial conflicts of interest in the delivery of continuing medical education, and;
- The role of specialty board certification and re-certification in continuing medical education requirements and ensuring continued competence.

The goal of this work would be to ultimately discover what is most effective and most needed to ensure continued competence, improve the knowledge and skill of physicians, and thereby better protect patients. The end of the committee's work should be a regulatory proposal to amend the requirements to incorporate findings, to ensure that they are meaningful and useful for physicians.

Ms. Chang made a motion to appoint an advisory committee to review CME and present a symposium in July. Ms. Schipske suggested moving the proposed function to the Education Committee rather than forming a new committee. Ms. Chang revised her motion to direct the Education Committee to review CME and present a symposium on the subject in July; the motion was seconded and carried.

Agenda Item 16 Executive Committee Update and Consideration of Committee Recommendations

A. Report on October 1, 2009 Licensing Update Meeting

Ms. Yaroslavsky reported the Executive Committee met on October 1, 2009 to publicly address the issues around the licensing backlog. The meeting included reports and discussion on the factors contributing to the backlog, its impact on the ability of the Board's clients to provide services to the public, and the Board's plans to resolve the backlog and prevent its recurrence. The new Licensing Committee will be responsible for overseeing the execution of the plans to revamp the licensing process. Ms. Yaroslavsky asked that the minutes from the October 1, 2009 Executive Committee and the two GME meetings be included with the materials for the January 2010 Board meeting.

Agenda Item 17 Wellness Committee Update and Consideration of Committee Recommendations

Dr. Duruisseau reported the Committee discussed and gave its final approval to gather updated information from health care providers in California on their wellness activities through a program survey developed by staff and the Committee members.

Dr. Duruisseau requested the following be read into the record:

> *At our last Wellness meeting, Dr. Peter Yellowlees, who chairs the UC Davis Well-being Committee, presented a proposal for collaboration between the Medical Board and UC Davis on a project related to physician wellness. The Board's Wellness Committee would like the Board to move forward on this collaborative project, however, we know that the Board must be totally transparent in all of its actions. Dr. Yellowlees is the spouse of our Executive Director, Barbara Johnston. He has, therefore, removed himself from any participation on the UC Davis subcommittee that will be working with the Board on this issue. In addition, he will abstain from discussion or voting on any action item that the subcommittee may bring to the Wellness Committee.*

In an effort to move forward with the collaborative project, the Medical Board staff and UC Davis subcommittee on Well-being are developing a draft partnership plan with program goals, target audience, curriculum planning and development for educational materials for physicians to be made available on the CME websites for use throughout California. The draft plan will include timelines with a projected deadline of June 2010, at which time the project will be presented to the Board for further consideration.

Dr. Duruisseau reported Dr. Laurie Gregg, a member of the Wellness Committee, has agreed to collaborate with key stakeholders, including representatives from CMA, UC Davis, and others, to identify best practices for health care providers of wellness programs in California.

Agenda Item 19 Physician Assistant Committee Update

Dr. Low reported the Physician Assistant Committee (PAC) met in August 2009 in Sacramento where the strategic plan was completed and will likely be voted on and approved at the November 5, 2009 meeting. He noted a regulation amendment was approved by the Office of Administrative Law giving the Committee the authority to require that licensees disclose prior to renewal of their license whether he or she has been convicted of any violation of the law in the U.S. or in any other country.

The PAC still has a diversion program which is administered by a third party and costs approximately $247 per month. Currently the participants pay around $100 per month. Due to budgetary constraints, there will be a proposal to have the required participants pay the entire amount and the voluntary self-referrals pay 75% of the cost. This proposal will be discussed at the November 2009 meeting.

Dr. Low noted an interim approval for licenses previously existed due to the infrequent offering of the licensing exam. Now that the exam occurs more often, the interim approval is no longer necessary and was deleted in the 2009 signed omnibus bill.

Agenda Item 20 Strategic Plan Update
Ms. Yaroslavsky directed that the Strategic Plan Update be held until the January 2010 meeting.

Agenda Item 21 Agenda Items for January 28-29, 2010 Meeting
Ms. Schipske asked for an update on the discussion requiring physicians to post signage indicating they are licensed by the Medical Board.

Ms. Schipske also requested a public update on acceptable practices of physicians with regard to advertising medical marijuana recommendations and referrals.

Dr. Salomonson requested a discussion on the Board's position on the exemption of physician supervision for nurse anesthetists.

Mr. Zerunyan requested a review of the Board's criteria for its medical experts as well as the methods used to obtain their services.

Agenda Item 22 Adjournment
There being no further business, the meeting was adjourned at 4:38 p.m.

Barbara Yaroslavsky, President

Hedy Chang, Secretary

Barb Johnston, Executive Director