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.
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

January 28-29, 2010

Embassy Suites – San Francisco Airport
Mendocino/Burlingame Room
150 Anza Blvd.
Burlingame, CA 94010
650-342-4600

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

AGENDA

Thursday, January 28, 2010
4:00 p.m. to 5:00 p.m.
(or upon conclusion of Access to Care Committee)

Friday, January 29, 2010
9:00 a.m. to 4:00 p.m.
(or upon conclusion of the Application Review Committee)

ORDER OF ITEMS IS SUBJECT TO CHANGE

Thursday, January 28, 2010 4:00 p.m. or upon conclusion of the Physician Supervision Advisory Committee

1. Call to Order / Roll Call

2. Telemedicine Presentation: Delivery Methods and Legal Issues – Ms. French, Dr. Marcin, Dr. Goldyne, Ms. Orlowski and Mr. Guerrero

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Friday, January 29, 2010 9:00 a.m. or upon conclusion of the Application Review Committee

3. Call to Order / Roll Call

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.

4. *Executive Director Position*
   A. Resignation of Executive Director - Information
   B. Appointment of Interim Executive Director [**Closed Session:** [Pursuant to Government Code Section 11126(e)(2)(A)]
   C. Search for New Executive Director [**Open Session**]

5. Approval of Minutes from the October 30, 2009 meeting

6. Public Comment on Items not on the Agenda
   Note: The Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 1125.7(a)]

7. Board Member Communications with Interested Parties – Ms. Yaroslavsky

8. President's Report - Ms. Yaroslavsky

9. Executive Director's Report – Ms. Johnston
   A. Budget Overview and Staffing Update

10. Legislation – Ms. Whitney
    A. Status of Regulatory Action
    B. 2009 Legislation Discussion and Implementation Plans
    C. Consideration of 2010 Proposed Legislation
    D. 2010 Legislation

11. SB 1441 Guidelines and Discussion of Possible Legislative and Regulatory Action the Board May Need to Take for Implementation – Mr. Riches and Ms. Whitney

12. Discussion on Physician Supervision of Nurse Anesthetists – Ms. Whitney

13. Licensing Chief's Report – Ms. Pellegrini
    A. Licensing Program Update
    B. Licensing Consultant's Report – Ms. Hubbert
    C. Midwifery Advisory Council Update – Ms. Gibson

14. Proposed Amendments to Section 1328 of Title 16 CCR (Acceptable Written Examinations)– Ms. Pellegrini

15. Midwifery Advisory Council Nominations and Approval– Ms. Pellegrini

16. Approval of Nizhoni Midwifery Institute – Ms. Pellegrini

17. 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. Request to Establish an Enforcement Committee to Assist Staff with the following issues:

1. Upfront Specialty Reviewer Timelines
2. The Board's current Medical Marijuana Guidelines

18. Vertical Enforcement Program Report – Ms. Threadgill and Mr. Ramirez

19. Licensing Committee Update and Consideration of Committee Recommendations – Dr. Salomonson

20. Special Task Force on International Medical School Recognition – Consideration of Recommendations – Dr. Low

21. Special Faculty Permit Review Committee Recommendations – Dr. Gitnick

22. Access to Care Committee Update and Consideration of Committee Recommendations – Dr. Gitnick

23. Physician Supervision Advisory Committee Update and Consideration of Committee Recommendations – Dr. Moran

24. Wellness Committee Update and Consideration of Committee Recommendations – Dr. Duruisseau

25. Physician Assistant Committee Update – Dr. Low

26. Federation of State Medical Boards Update – Ms. Chang

27. Strategic Plan Update – Ms. Yaroslavsky and Ms. Johnston

28. Agenda Items for April 29-30, 2010 Meeting

29. Adjournment

NOTICE: The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Cheryl Thompson at (916)263-2389 or email cthompson@mbc.ca.gov or send a written request to Ms. Thompson at the Medical Board of California, 2005 Evergreen Street, Suite 1200, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

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.

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For additional information call (916) 263-2389.

MEDICAL BOARD OF CALIFORNIA
Executive Office

Medical Board of California
Embassy Suites San Francisco Airport
150 Anza Boulevard
Burlingame, CA 94010

January 28-29, 2010

MINUTES

In order to remain consistent with the record, the agenda items presented in these minutes are listed in the order discussed at the January 28-29, 2010 meeting.

Agenda Item 1 Call to Order/ Roll Call
Ms. Yaroslavsky called the meeting of the Medical Board of California (Board) to order on January 28, 2010 at 4:15p.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.
Staff Present:
Brian Ansay, Investigator
Susan Cady, Enforcement Manager
Candis Cohen, Public Information Officer
Janie Cordray, Research Specialist
Abbie French, Telemedicine Manager
Kurt Heppler, Legal Counsel
Teri Hunley, Business Services Manager
Barb Johnston, Executive Director
Ross Locke, Business Services Office

Armando Melendez, Business Services Office
Cindi Oseto, Licensing Special Programs Analyst
Deborah Pellegrini, Chief of Licensing
Regina Rao, Business Services Office
Paulette Romero, Enforcement Manager
Kevin Schunke, Regulation Coordinator
Anita Scuri, Department of Consumer Affairs, Supervising Legal Counsel
Susan Thadani, Senior Investigator
Cheryl Thompson, Executive Assistant
Renee Threadgill, Chief of Enforcement
Linda Whitney, Chief of Legislation

Members of the Audience:

Bill Barnaby, Sr., California Society of Anesthesiologists (CSA)
Bill Barnaby, Jr., California Society of Anesthesiologists (CSA)
Yvonne Choong, California Medical Association (CMA)
Jim Conway, Pacific Assistance Group
Betsy Crouch, Center for Public Interest Law (CPIL)
Julie D'Angelo Fellmeth, Center for Public Interest Law (CPIL)
James Hay, M.D., California Medical Association (CMA)
Brett Michelin, California Medical Association (CMA)
Joy Mobley, Member of the Public
Margaret Montgomery, Kaiser Permanente
Gary Nye, M.D., Alameda / Contra Costa Medical Association
Nancy Peverini, Consumer Attorneys of California
Carlos Ramirez, Senior Assistant Attorney General
Greg Santiago, Department of Consumer Affairs (DCA)
Rehan Sheikh, Member of the Public

Agenda Item 2 Telemedicine Presentation: Delivery Methods and Legal Issues

Dr. Marcin, UC Davis, spoke on the use of real time video conferencing for telemedicine. He noted that while 25% of the nation's population lives in rural communities, only 5% of doctors live or work in rural areas. Telemedicine allows clinicians to reach underserved populations that would otherwise have no or limited access to care and reduces disparities in the level of care by linking remote sites to regional medical centers, specialists, and subspecialists.

Dr. Goldyne, private dermatology practitioner in San Francisco, presented on the use of store and forward telemedicine and teledermatology. In teledermatology, referral sites send images of the skin condition, the patient's history and medications in an encrypted email to the specialist. The specialist evaluates the images and the electronic medical record and then emails back a consult providing diagnostic and therapeutic assistance. This consult transcript then becomes part of the patient's medical record. Studies have shown the clinical outcomes of store and forward telemedicine were equivalent to those done via in person visits.

Ms. Orlowski, UC Davis Legal Department, discussed legal implications for telemedicine providers. Telemedicine is defined as the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data or education using interactive audio, video, or data communications where a patient is at a site remote from the provider. Telemedicine is *not* a

telephone or facsimile transmission or internet prescribing. California law has very specific restrictions on internet prescribing, stating one may not provide prescription medication to a patient without a prior examination and a medical indication. A telemedicine visit does constitute a proper medical indication; the provision of good medical care does not require a face to face visit. For telemedicine visits, state law requires an informed consent form be completed; the primary care or referring physician with ultimate authority over the patient must obtain this consent. California statutes are also specific that any information that is transmitted as part of the telemedicine consult must be made part of the medical record.

With regard to licensure, Ms. Orlowski noted every state's rules vary for permitting out of state practitioners to provide telemedicine services in their state without a license, ranging from no exception (must be fully licensed in state) to full exception (state license not required). California falls under the "consultative" model which allows out of state practitioners who are duly licensed in their state to provide consultations to patients, but they may not have any ultimate authority over the patient, may not see the patient in California, may not receive calls from patients while in California, and may not give orders. Unless the telemedicine provider obtains a California license, they must act purely as a consultant. The provider must also possess professional liability insurance.

California has a statute recognizing telemedicine as appropriate health care and prohibits health care service plans from requiring a face to face visit with a patient in order to qualify as a reimbursable service under private payer contracts.

Jose Guerrero, Supervising Deputy from the Attorney General's Office (AG), spoke on a recent case brought against an out of state physician for internet prescribing without a good faith medical examination with a patient. He noted that existing laws in the Medical Practices Act and the standard Disciplinary Guidelines must be adhered to in order to protect California consumers.

There was no public comment and Ms. Yaroslavsky adjourned the meeting at 4:35 p.m.

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Agenda Item 3 Call to Order/ Roll Call

Ms. Yaroslavsky called the meeting of the Medical Board of California (Board) to order on January 29, 2010 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.

Frank V. Zerunyan, J.D., Vice President

Members Absent:

Gerrie Schipske, R.N.P., J.D.

Staff Present:

Susan Cady, Enforcement Manager
Candis Cohen, Public Information Officer
Janie Cordray, Research Specialist
Kurt Heppler, Legal Counsel
Teri Hunley, Business Services Manager
Barb Johnston, Executive Director
Robin Jones, Midwifery Analyst
Ross Locke, Business Services Office
Armando Melendez, Business Services Office
Kelly Nelson, Legislative Analyst
Cindi Oseto, Licensing Special Programs Analyst
Pat Park, Application Review Analyst
Deborah Pellegrini, Chief of Licensing
Regina Rao, Business Services Office
Paulette Romero, Enforcement Manager
Kevin Schunke, Regulation Coordinator
Dennis Scully, Investigator
Anita Scuri, Department of Consumer Affairs, Supervising Legal Counsel
Kathryn Taylor, Licensing Program Manager
Susan Thadani, Senior Investigator
Cheryl Thompson, Executive Assistant
Renee Threadgill, Chief of Enforcement
Linda Whitney, Chief of Legislation

Members of the Audience:

Chloe Angelis, Permanente Medical Group
Leo A. Baca, Beverly Radiology Group
Bill Barnaby, Sr., CSA
Bill Barnaby, Jr., CSA
Richard Bell, M.D., Member of the Public
Richard Boxer, M.D., Member of the Public
Claudia Breglia, California Association of Midwives
Yvonne Choong, CMA
Jim Conway, Pacific Assistance Group
Betsy Crouch, CPIL
Patricia Dailey, M.D., CSA
Karen Ehrlich, Midwifery Advisory Council (MAC)
Julie D'Angelo Fellmeth, CPIL
Janis Fodran –Keeney, Member of the Public
Jauna Foster, Member of the Public
Ben Frank, Benjamin Frank Management Consultants
Faith Gibson, MAC
Kele Griffiths, Johnson & Johnson

Beth Grivett, P.A., California Academy of Physician Assistants (CAPA)
James Hay, M.D., CMA
Marla Hicks, Nizhoni Institute
Kimberly Kirchmeyer, Department of Consumer Affairs (DCA)
Brett Michelin, CMA
Joy Mobley, Member of the Public
Margaret Montgomery, Permanente Medical Group
Gary Nye, M.D., Alameda / Contra Costa Medical Association
Nancy Peverini, Consumer Attorneys of California
Rosielyn Pulmano, Senate Business and Professions (Senate B&P)
Carlos Ramirez, Senior Assistant Attorney General
Paul Riches, DCA
Greg Santiago, DCA
Rehan Sheikh, Member of the Public
Taryn Smith, Senate Office of Research

Agenda Item 5 Approval of Minutes from the October 30, 2009 Meeting
Mr. Zerunyan moved to approve the minutes from the October 30, 2009 meeting; s/Moran; motion carried.

Agenda Item 6 Public Comment on Items Not on the Agenda
No public comment was offered.

Agenda Item 7 Board Member Communications with Interested Parties
No communications were reported by Members.

Agenda Item 8 President's Report
Ms. Yaroslavsky expressed the Board's appreciation to staff for their efforts in eliminating the licensing backlog by the end of December 2009. She also stated she was pleased with the work of the various committees and their collaboration with interested parties to address important issues and achieve mutual goals.

She announced the Executive Director, Barb Johnston, has accepted a job offer in the private sector in the field of telemedicine and extended the Board's best wishes to Ms. Johnston.

Ms. Johnston thanked the Board. Ms. Yaroslavsky presented Ms. Johnston with a plaque in appreciation of her service.

Ms. Yaroslavsky reported she, Ms. Johnston and Ms. Whitney attended a meeting on December 16, 2009 with Paul Phinney, CMA Board Chair, Alfred Gilchrist, CMA CEO, and CMA Staff Brett Michelin and Yvonne Choong to discuss the Board's priorities for the coming year.

Agenda Item 9 Executive Director's Report
Ms. Johnston presented an overview of the budget. She noted that savings and expenditures for the Office of Administrative Hearings have provided sufficient funds to cover the $111,000 in overtime. All staff overtime has been stopped for now and staff has been asked to look for ways to significantly decrease temporary help.

DCA requested Board staff to submit a plan to reflect the Administration's request for an additional 5% salary savings in budget year 2010/11. The budget for next year currently expects a salary savings of $908,000; the Board was required to provide a plan for an additional 5%, or $915,000, for a total of $1.8 million in salary savings in 2010/11. DCA requested that staff submit one plan that did not include the new FTEs for the Enforcement BCP and another plan that does include these positions.

DCA also asked staff to complete a survey that would identify staff and resources required to improve services of the Licensing Program, focusing on what was required to reduce licensing timeframes.

Ms. Johnston reported the staffing vacancy rate was positive, with a 10% vacancy rate in Enforcement and a 4% rate in Licensing.

Dr. Gitnick asked about the level of the Board's current reserves and whether this was within the guidelines established by the Legislature. Ms. Johnston reported the reserve fund balance currently exceeds the guidelines. She noted staff will be reviewing which BCPs need to be submitted this year to fund the positions authorized last year, including six full time positions for the Operation Safe Medicine (OSM) program, 5 positions for Probation, and 7.8 for Licensing. These BCPs, if they go forward, should put the Board in compliance, though this cannot be guaranteed until the next budget report which will reflect additional funds spent on overtime.

Agenda Item 10 Legislation

A. Status of Regulatory Action

Ms. Whitney reported the CME Audits and the Re-review of International Medical School regulations took effect in early January 2010. She noted the Notice to Consumers by Physicians is still pending at the Department of Finance. The Disciplinary Guidelines are still at the Medical Board being finalized before forwarding to the DCA. The 2010 calendar for proposed regulations will be submitted to the Office of Administrative Law in mid-February.

B. 2009 Legislation and Implementation Plans

AB 501 (Emmerson) Licensing: Limited License, Use of M.D., Fee/Fund

This Board-sponsored bill addresses an initial 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. Information regarding changes in the use of M.D. has been detailed in the Board's newsletter; a mailing notifying medical schools, hospitals and training programs of the new requirements will be forthcoming.

The implementation of the limited license will require regulatory action. It will not require setting any new fee, though revisions to the current application must be made and procedures must be written on how to handle limited license requests.

Ms. Whitney stated she did not provide an analysis of the fund condition due to the various 2010/11 initiatives that have arisen and the new salary savings drill since these must be incorporated into the analysis. A more complete projection of the fund condition will be available at the April meeting which may allow the Members to have an informed discussion on

a possible reduction in fees. This analysis will include the $22 credit that will be returned to those renewing a license in FY 2010/2011 as part of the required fee reduction for the elimination of the diversion program.

AB 1070 (Hill) Enforcement Enhancements: reporting, public reprimand
This Board-sponsored bill carried the Board's enforcement enhancements. Many of the provisions of this bill have already been implemented by Enforcement staff. Still outstanding is the establishment of a team building plan between the Board and the Health Quality Enforcement Section of the Attorney General's Office.

SB 132 (Denham) Polysomnographic Technologists
The implementation of the Polysomnographic Technologists Licensing bill is dependent upon the hiring of an analyst to head the program. The sponsor and the interested parties are ready to assist the Board by providing expertise, history, and qualification materials in order to swiftly draft the regulations and move them forward to hearing. Applications are currently being solicited for the analyst position and timelines will be adjusted after the position is filled.

The application, licensing, and renewal fees will be set in regulation to be cost neutral, but will likely start at the maximum amount permitted in law. As the licensure program is implemented, an assessment will be made to determine if these fees are excessive or insufficient and adjustments will be made. Levels of required supervision not already determined by law will be set in regulation for technologist, technicians and assistant technicians.

C. Consideration of 2010 Proposed Legislation
Ms. Whitney directed Members to the "2010 Legislative Proposals" section of their Legislative Packets.

The Board sponsored enforcement proposals come from the November 2009 Quarterly Meeting:

1. Representation of Board Obtained Expert Witness for Enforcement Cases: Language has been drafted and presented to Assembly Member Hill who has agreed to carry the bill this year. Additional enforcement enhancements may be added to the bill.
2. Up Front Specialty Reviews: This proposal was forwarded to the Enforcement Committee for future discussion.
3. Default Decisions: It is hoped that this proposal will be addressed in the DCA enforcement bill.
4. Posting of PC 23 Orders: This proposal will likely appear in either the DCA enforcement bill or in another bill carried by the chair of the Senate Business & Professions Committee (B&P).
5. Omnibus – Various Sections: These provisions have been submitted to the Senate B&P Committee. The item to clarify a subsection of B&P 805 will not be included in the omnibus bill, but in a possible bill carried by Senator Negrete-McLeod related to peer review.

The licensing legislative proposals consist of:

1. Minor amendment to B&P 2184: submitted for review in the omnibus bill.
2. Midwifery provision: technical clean up of the reporting language to be included in the omnibus bill.
3. Licensing enhancements: will go forward in 2011.

4. Omnibus – Various Sections: technical cleanup.

Overall legislative proposals that affect the full Board:

1. Malpractice Coverage for Volunteer Physicians: see report from the Access to Care Committee.
2. Biennial Program Audit of the Board: Discussions have occurred with Senate B&P on a biennial audit of the Board. The Board has a sunset review scheduled in 2012; a full evaluation of the Board will occur in late 2011 for the sunset review, hence, it is unclear whether the Board should go forward with a legislative amendment this year for an audit or should put the proposal in a sunset bill that would make it continuous. Dr. Gitnick requested at the October 2009 meeting that the Board's audit be similar to that which is required of the State Bar and would require all aspects of the Board's activity (not limited to just the Enforcement and Licensing Programs).

Ms. Whitney reported the following concepts have originated from other sources; some may require action by the Board:

1. Physician Assistant Statute of Limitations.
2. Physician Assistant Sign and Attest Per Delegation of Services Agreement
3. Letter of Request from Assembly Member Carter to Sponsor New Version of AB 252: A similar version of this bill, which addresses patient safety in cosmetic medical procedures, was vetoed by the Governor as being duplicative of existing law.

   Ms. Chang moved to decline Assembly Member Carter's request to sponsor the bill, but to notify her that the Board would be support the bill if it was introduced; s/Zerunyan; motion carried.

4. SB 1441 Task Force Recommendations: Discussion was deferred to Item 11.
5. DCA sponsored Enforcement Enhancements:
   Kim Kirchmeyer, Deputy Director of Board Relations for the DCA, presented on the Consumer Protection Enforcement Initiative (CPEI). The Department assembled a working group to put together the proposed initiative to improve the enforcement process by reducing the length of time it takes from the date a complaint is received until it is finalized from the current three years down to twelve to eighteen months.

   The initiative focuses on three main areas: administrative improvements, staffing and IT resources, and legislative changes. A Deputy Director for Enforcement and Compliance, Paul Riches, was hired by the Department to review and monitor the improvements happening at each board. Performance agreements are being established with several other state agencies, including the Attorney General's Office and the Office of Administrative Hearings in order to set timelines.

   A global BCP was put forward for additional staffing resources for the enforcement processes for all the healing arts boards; the BCP has been supported by the Administration and is in the Governor's budget. For the Board, the BCP would add 20 additional enforcement positions; this could have a significant impact on the Board's fund reserve.

   The implementation of a new IT process is also a part of the CPEI. The former Complaint Resolution Information Management System (CRIMS) project has been

transitioned into a Department-wide project called BreEZe. A Request for Proposal (RFP) is being assembled; it is hoped in December 2012 the first group of healing arts boards will move forward to implement the system. The BreEZe system will encompass both enforcement and licensing processes.

DCA is also seeking legislative changes including the ability to suspend a license in a more timely manner, the removal of the gag clause in any civil settlements, the delegation of approval for stipulated surrenders in default decisions. A number of the changes reflect regulations the Board already has in place. Ms. Kirchmeyer requested that the Board ask staff to meet with legal counsel and the Department to make minor amendments to the bill to ensure the Board would approve the draft document that will be going forward. Currently, the document is at legislative council; a bill will be forthcoming and DCA requests the Board to work with them on this legislation.

Dr. Duruisseau made a motion to have the Board work with the Department to improve the language of specific parts of the proposal and work together, generally, on the Consumer Protection Enforcement Initiative; s/Moran.

Mr. Zerunyan asked how the initiative fits with Vertical Enforcement (VE). Ms. Kirchmeyer responded the initiative should not affect VE, allows the other healing arts boards the option of doing VE, and develops a timeframe for the AG's Office to file an accusation and serve it. The twelve to eighteen month timeframe goal *includes* the time the Attorney General's Office will be involved in a complaint.

Mr. Zerunyan and Dr. Gitnick expressed their concern with the Board's ability to control the AG Offices' timeframes. Dr. Gitnick stated the Board has no real authority to hold the AG's Office to the timeframes, thus these timeframes must be firmly established in law.

Dr. Levine asked for clarification on CPEI's future amendment to eliminate the authority of boards to adopt or non-adopt decisions. Ms. Kirchmeyer stated this was not in the actual proposal and noted she is aware the Board has not been supportive of this position in the past. The DCA has not taken a position on this issue yet.

Rosielynn Pulmano, Senate B&P staff, reported Senator Negrete-McLeod will author this bill that DCA is sponsoring. Senate B&P will work with the stakeholders on the issues raised in the proposal. She reported another proposal would allow Board members to actually hear non-controversial cases (such as cite and fine cases). Senate B&P would work with the Board on the non-adopt issue.

Mr. Zerunyan suggested the CPEI team look at the Trial Reduction Act in the Los Angeles Superior Court system as a model for reducing time in a judicial system or format.

Dr. Salomonson asked whether the Board should formalize it's preference to continue to be able to vote on Administrative LawJudge decisions. Ms. Yaroslavsky suggested the Enforcement Committee should consider this.

Ms. Pulmano indicated the bill be introduced in mid-February; hearings on the bill in

Senate B&P will occur in April.
Ms. Yaroslavsky called for a vote on the motion; motion carried.

Ms. Yaroslavsky directed staff to call an interim Enforcement Committee meeting once the Enforcement Committee is officially established. In addition, she directed staff to call an interim Executive Committee meeting where the Enforcement Committee will present its findings and recommendations on the CPEI.

6. Peer Review: The DCA will be convening a stakeholders group per the Governor's veto.
7. Radiologist Assistant Practice Act under the Medical Board: Ms. Whitney recommended the Board take no action at this time until a bill is actually introduced.

During public comment, Laura Foster noted Registered Radiologist Assistants (RRAs) and Radiology Practitioner Assistants (RPAs) perform similar functions, though they are certified by two separate entities. Janis Fodran-Keeney reported twenty seven states already have laws regarding the profession's practice. Ms. Keeney, Ms. Foster, and Leo Baca spoke in support of amending the proposed Act to also include RPAs in the proposal.

D. 2010 Legislation

AB 977 (Skinner) Pharmacists: immunization protocols with physicians
Ms. Whitney reported this bill would allow a pharmacist, in consultation with a physician, to administer influenza immunizations to any person 18 years of age or older. Dr. Salomonson and Dr. Low voiced their concerns with the bill.

Dr. Moran noted the practice of pharmacists administering immunizations, which is common in other states, is used as a tool to provide increased access to care.

Dr. Gitnick asked if CMA supports this bill. Brett Michelin, CMA, reported they have taken a neutral position on the bill.

Dr. Moran made a motion to support the bill; s/Zerunyan; motion carried (1 abstention).

Agenda Item 11 SB 1441 Guidelines and Discussion of Possible Legislative and Regulatory Action the Board May Need to Take for Implementation
Mr. Riches reported he is responsible for establishing an oversight system.

Ms. Whitney directed Members to the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees. Mr. Riches indicated DCA will sponsor legislation to implement any needed statutory changes.

Standard #1 states any licensee on probation who the board has reasonable suspicion has a substance abuse problem shall be required to undergo a clinical diagnostic evaluation at the licensee's expense. This standard is consistent with the Board's disciplinary guidelines. Staff will be reviewing the standard to make sure it coincides with all the Board's procedures.

Standard #2 addresses practice restrictions. The standard would require placing licensees on inactive status if they are found to be abusing substances. This will require a revision to the Medical Practice Act or general provisions.

Standard #3 deals with specific requirements that govern the ability of the licensing board to communicate with the licensee's employer about the licensee's status or condition. This standard can be implemented by including it in a stipulation or order as long as the definition of "worksite" is resolved.

Standard #4 addresses drug testing standards and would require 104 random drug tests per year; currently the Board orders 52 tests. Ms. Whitney stated this standard presents policy, cost, resource, and necessity issues for the Board. Ms. Scuri added the mandatory number of testings has the potential to reduce the number of stipulations that licensees are willing to enter into; this impact should be considered.

Mr. Riches reported the standards, once developed, would be *mandatory* for *all* healing arts boards. This includes 104 drug tests in the first year only; in subsequent years the number of tests is reduced to 50 consistent with the Board's current practices.

Dr. Gitnick noted when the Board established 52 drug test per year as its standard, the decision was not based on scientific research or the advice of experts; he recalls it was an arbitrary decision. He felt, if the Board questions the 104 drug tests, it should be based on scientific evidence and advice.

Jim Conway, Pacific Assistance Group, stated 104 drug tests per year is not evidenced based and does not reflect national standards. He reported the Federation of State Physician Health Program's standard is four or more tests per month, as needed. He indicated the impact of the number of required tests can be economically devastating for health care professionals.

Julie D'Angelo Fellmeth, CPIL, noted no scientific evidence on the frequency of drug testing was presented at SB 1441 Committee meeting she attended. The recommended frequency of the testing varied significantly. She felt the higher number of required tests offers greater public protection.

Standards #5 and #6 do not apply to the Medical Board.

Standard #7 addresses worksite monitors. The Board's procedures may need to be revised.

Standard #8 focuses on the procedures to be followed when a licensee tests positive for a banned substance. The standard calls for placing the licensee's license on inactive status which will require legislation.

Standard #9 does not apply to the Board as it is already a part of the Board's evaluation of a major violation.

Standard #10 deals with the specific consequences for major and minor violations. To implement the consequences included in the standard, the authority for inactivation of a license would need to be placed in law. Since the Board does not have a diversion program, the remainder of the consequences does not apply.

Standard #11 addresses the criteria that a licensee must meet in order to petition for return to practice on a full time basis. The Board would need the statutory authority for the practitioner to

return to practice at the same time it obtains authority to remove the licensee from practice, as previously mentioned in Standards #2, #8, and #10.

Standard #12 lists the criteria that a licensee must meet in order to petition for reinstatement of a full and unrestricted license. These criteria are already in existing law; the Board would generally follow this same process since it already exists. It appears the standard is looking at two different processes; the Board may need a statutory requirement to address the second process.

Standards #13, #14, and #15 do not apply to the Board.

Standard #16 addresses measurable criteria and standards to determine whether the Board's method of dealing with substance-abusing licensees protects patients from harm. The Board would need to develop a reporting mechanism to provide all of the specified data to DCA.

Ms. Kirchmeyer requested that any standards that will require regulatory changes be addressed at the Board's next meeting, any standards that can be implemented by policy be done so immediately, and the implementation of the standards appear as a regular item on the Board's meeting agenda to check on progress.

During public comment, Mr. Conway expressed his concern the standards would lead to a decline in voluntary referrals by licensees into diversion programs since information would appear on the website which will be a barrier to employment and practice.

Once the legislation is written and regulatory language and proposals are developed, staff will bring the issue before the Board for discussion and voting. Staff will move ahead with any required changes at the policy level in order to implement the standards as requested by DCA.

Agenda Item 12 Discussion on Physician Supervision of Nurse Anesthetists

Ms. Cordray read the Summary from the Staff Report on the Governor's decision to "opt-out" of physician supervision of California Registered Nurse Anesthetists (CRNAs) for Medicare and Medicaid (MediCal) services.

It is questionable whether California may not opt-out of the requirement that CRNAs be supervised by physicians, as this would not be consistent with California law. Staff asked members to choose one of the following options:

1. Take no action; allowing the legal community and the professional associations to grapple with the issues surrounding the Governor's action;
2. Write the Governor and ask that he reconsider his decision in light of the Legislative Counsel's opinion;
3. Direct the Board's Advisory Committee on the Physician Responsibility in the Supervision of Allied Health Professionals to further study the issues and report their findings back to the Board.

Bill Barnaby, CMA, introduced Patricia Dailey, M.D., California Society of Anesthesiologists (CSA). Dr. Dailey spoke on the policy and patient protection implications of the Governor's action. CSA urged the Board to choose option #2.

Dr. Gitnick stated the Governor's opt-out decision was based on his concern for patients in underserved areas of the state who have little or no access to anesthesia care. He noted the decision came down to a question of whether the patients were better off with no anesthesia or with anesthesia provided by an unsupervised CRNA. If the Board chooses option #2, he would like to offer the Governor a plan to provide the necessary physicians who are willing to oversee CRNAs in underserved areas, with CMA and CSA taking the lead on providing such a plan.

Mr. Barnaby stated physicians are obligated under the law to order the administration of a medication by an RN or a CRNA and to direct the administration of a controlled substance or a dangerous drug. He asserted it is up to the physician community, specifically surgeons and obstetricians, to exercise those obligations they presently have.

Dr. Salomonson noted the difference in training between an anesthesiologist and a CRNA was significant and expressed her concern over the CRNAs ability to handle emergencies. Dr. Salomonson said the issue should be taken up by the Access to Care Committee working in conjunction with the anesthesiologists to come up with creative solutions for specialty coverage in underserved areas while holding to the patient safety standard of physician supervision of CRNAs.

Yvonne Choong reported CMA supports option #2.

Richard Bell, M.D., stated the data from studies quantifying the difference in patient outcomes in cases performed by CRNAs versus anesthesiologists shows for the low risk patient, there is no difference in outcomes. He noted the opt-out does not *require* hospitals to allow CRNAs to practice unsupervised; hospitals may still require supervision in their rules and regulations. However, in communities with a shortage of anesthesiologists, anesthesia would still be available via an unsupervised CRNA. Dr. Bell noted fourteen other states have opted out of the physician supervision of CRNAs over the past ten years and there have not been a large number of adverse outcomes. He urged the Board to adopt option #1.

Ms. Yaroslavsky suggested referring the issue to a joint taskforce of the Access to Care and the Physician Responsibility in the Supervision of Affiliated Health Care Professions Committees in order to work with interested parties to explore options and present their recommendations back to the Full Board.

Dr. Moran made a motion that, in the interest of patient safety, a letter should first be written to the Governor asking that he reconsider his action and then the Board should go into committee to craft solutions to the issue; s/Salomonson.

After considerable discussion, ***Dr. Moran amended her motion to write a letter to the Governor asking him to reconsider his decision in light of concerns about consumer safety and explain that it is the Board's intention to work diligently to develop solutions to the problem of access to care.***

Ms. Chang, Dr. Low, Dr. Chin, and Dr. Gitnick indicated, in light of the complexity of the issue, they would prefer the committees work with stakeholders to craft solutions *before* writing a letter to the Governor.

Ms. Yaroslavsky called for the vote; the motion failed (2-yes, 7-no, 1 abstention).

Dr. Carreon made a motion to create a taskforce with stakeholders that will meet as soon as practically possible in order to craft solutions to the issue that will then be addressed to the Governor in a letter; s/Duruisseau.

Dr. Levine suggested that representatives from the hospitals be included in the task force and information on the size of the gap in physician supervision of CRNAs from county to county should be assembled in order to match excess supply to unmet demand.

Dr. Salomonson expressed her concern that the Board was setting a precedent that if a specialty cannot provide complete coverage in all areas, then the educational requirement will be lowered. She felt this would mandate each specialty to provide complete coverage in order to be the provider of services.

Ms. Yaroslavsky called for a vote on Dr. Carreon's motion; motion carried (8–yes, 2-no).

Agenda Item 4 Executive Director Position
Pursuant to Government Code Section 1126(e)(2)(A), the Board went into closed session at approximately 12:15 p.m. to discuss the appointment of an Interim Executive Director and the search for a new Executive Director.

Open Session:
The Board reconvened in open session at approximately 1:15 p.m.

B. Appointment of Interim Executive Director
Ms. Yaroslavsky announced the appointment of Linda K. Whitney as the Interim Executive Director and administered the Oath of Office.

C. Search for New Executive Director
Ms. Yaroslavsky asked Ms. Whitney to provide a plan for the search for a new Executive Director at the April 2010 meeting.

Agenda Item 21 Special Faculty Permit Review Committee Recommendations
Dr. Gitnick reported the Special Faculty Permit Review Committee met on December 17, 2009 where they reviewed and discussed the application of a highly qualified radiologist for the UC Irvine School of Medicine. The Committee unanimously recommended his approval for a 2168 certificate.

Dr. Moran made a motion to adopt the Committee's recommendation; s/Duruisseau; motion carried.

Agenda Item 22 Access to Care Committee Update and Consideration of Committee Recommendations
Dr. Gitnick reported, per AB 2342 (Nakanishi), the Committee has been studying options for providing malpractice insurance for physicians who provide voluntary, uncompensated healthcare. A Malpractice Task Force, established at the October 2009 Board meeting, met in mid-January 2010. Members include Mr. Zerunyan (chair), two members of the Access to Care

Committee (Dr. Carreon and Mr. Zerunyan), and representatives from CMA, the California Hospital Association (CHA), and liability insurers. Dr. Gitnick reported the task force participants were interested in further pursuing the sovereign immunity model under which the physicians are considered "state actors" or state employees (used in Florida). However, they wanted to consider an alternative funding model. At the recommendation of the task force, the Access to Care Committee would like to move forward with what they have labeled the "California model". A review of California law as it relates to this model will need to be done.

Mr. Zerunyan made a motion that the Board adopt the Access to Care Committee's recommendation that the Medical Board either sponsor, or seek others with whom to co-sponsor, legislation to enact a state actor or sovereign immunity model similar that which is used in Florida; s/Carreon.

The Access to Care Committee also requested that interested parties share their supporting ideas and make their concerns known to the Board regarding the following elements: funding, administration of the proposed program, operational issues, claimant issues, and coverage. Beth Grivett, CAPA, requested that physician assistants be included the discussion as PA volunteers encounter similar barriers.

Ms. Choong reported CMA is looking for authors to sponsor the legislation and is putting together the draft language.

Dr. Levine stated IRS taxation issues will also need to be included in any review; if the model envisions physicians as state employees, there may be imputed income on the value of the indemnification that would create a tax liability for the physician.

Karen Ehrlich, MAC, urged the Board to consider expanding any legislation to include all healthcare providers who are volunteers.

Ms. Yaroslavsky called for a vote; motion carried.

Agenda Item 23 Physician Supervision Advisory Committee Update and Consideration of Committee Recommendations

Dr. Moran reported the Committee was established to examine physician supervision and availability for the affiliated healing arts staff. The Committee will study the current real world practices, laws and regulations, and will look for solutions to any deficiencies in patient protection. The impetus for the Committee is a growing concern about physician oversight of physician extenders and perceived and potential lapses in that oversight. The Committee has a mandate from Business and Professions Section 2023.5 which directs the Board to look specifically at lasers and light treatment of patients being done by physician extenders and, more recently, from Senator Negrete-McLeod who sponsored SB 674. The Committee has the ability to weigh in on issues other than cosmetic procedures, such as the CRNA issue previously discussed, though this is the most blatant area of violation with regard to physician oversight concerns. Dr. Moran invited other interested parties to be involved with the Committee and attend their meetings to participate in discussions.

The Committee consists of: Jack Bruner, M.D., California Society of Plastic Surgeons, Beth Grivett, P.A., California Academy of Physician Assistants, Suzanne Kilmer, M.D., American Society of Dermatologic Surgery, Victor Narurkar, M.D., California Society of Dermatology and

Dermatologic Surgery, James Newman, M.D., California Society of Facial Plastic Surgery, Paul Phinney, M.D., CMA, and Harrison Robbins, M.D., California Academy of Cosmetic Surgery.

Dr. Moran made a motion to approve the appointment of the members named; s/Low. The motion carried.

Agenda Item 13 Licensing Chief's Report

A. Licensing Program Update

Ms. Pellegrini reported the physician and surgeon licensing backlog was successfully eliminated by December 23, 2009. Since June of 2008, significant improvements in the Licensing Program have been made including the development of a policy and procedure manual, creation of automated reports to track licensing trends and data, use of electronic communication to inform applicants of the status of their applications (WAAS), and the addition of staff via a budget change proposal (BCP) to address persistent staffing shortages in the Licensing Program. The BPR report provides recommendations to further improve the program.

The total number of un-reviewed applications, within the regulatory timeframe, continues to decrease. Review timelines for US applications is currently at 76 days, international applications for licensure is at 71 days, and international applications for post graduate training authorization letters (PTAL) is at 63 days. Ms. Pellegrini stated it is very important that the Licensing Program continue to work the application caseload down to 60 days in preparation for the annual influx of applications from residents and fellows needing licensure by July 1, 2010. With the cessation of all overtime, as noted by Ms. Johnston in the Executive Director's report, the ability to retain the 16 temporary staff is critical.

At the request of Ms. Yaroslavsky, Ms. Pellegrini provided information on Senior Level 2 Reviews (SR2); these reviews are for problem applications and take a significant amount of staff time to research. Cindi Oseto, Licensing Program Senior Analyst, reported the oldest un-reviewed SR2 file is from November 1, 2009; reviewed files awaiting additional information or the assessment of an applicant date back to the summer of 2009. Applicants requiring evaluations are not given a deadline but may obtain the evaluation at a time convenient for them; this often leads to a delay.

Ms. Yaroslavsky asked that the Licensing Committee members receive a copy of the Licensing Manual or an overview of the licensing application process.

Ms. Pellegrini reported Mr. Schunke has been working with the Licensing Program and the GME programs and teaching hospitals; to date, there are 875 names on the list of residents requiring licensure by July 1, 2010. Information will be provided back to the schools on a monthly basis whether their residents requiring licensure have or have not yet submitted an application and whether the individual has been licensed.

Dr. Levine noted the surge in applicants requiring licensure by July 1 was not limited to residents in teaching hospitals; most of the physicians going into practice who are working in hospitals are generally hired as of July 1. This makes the surge even larger. Further, some of the smaller hospitals and communities are dependent upon these physicians being licensed by July 1, making these applications a priority as well.

Dr. Salomonson asked if all hospitals could receive the information provided to teaching hospitals so they, too, could track the status of an applicant they are seeking to hire.

Ms. Whitney reported that Mr. Schunke has been setting up meetings with recruiters from the valley hospitals so he can speak to them about the licensing process and provide advice on the best time to hire since July 1 is historically a very busy time for licensure.

Ms. Yaroslavsky requested a plan for the reduction of temporary staff before the next meeting, stating the Licensing program should not be relying on temporary help to perform its function. Ms. Pellegrini reported it is her intent to keep the temporary staff in place until the July 1 surge has passed. The four additional permanent staff to be hired from the BCP will reduce the need for temporary help, but these individuals will need time to be trained. Ms. Yaroslavsky suggested that an additional BCP may be necessary.

B. Licensing Consultant's Report

Ms. Chang suggested tabling this agenda item until there was more time to review the BPR report and an opportunity for the Interim Executive Director to meet with Ms. Pellegrini to discuss the report.

Ms. Chang made a motion to refer the BPR report to the Licensing Committee who would then present their recommendations to the Board; s/Moran; motion carried.

C. Midwifery Advisory Council Update

Ms. Pellegrini reported a discussion took place at the January 7, 2010 Midwifery Advisory Council (MAC) meeting regarding clarification in the language in Business and Professions Code Section 2516 dealing with reporting requirements. These technical amendments clarify the dates of the report and clarify "demise and/or death" to include morbidity *and* mortality. These changes will be brought to the Board as a legislative proposal.

Ms. Yaroslvasky made a motion to approve the proposal to amend this section of law; s/Levine; motion carried.

A task force was formed within the MAC to study terms and conditions for remedial training of licensed midwives in quality of care cases. The task force made three recommendations: (1)Continuing education authored by any organization listed in Title 16, California Code of Regulations, Section 1379.26; (2)Examination (oral or written exam, or clinical evaluation similar to the challenge mechanism); and (3)Practice monitor (similar to that for physicians).

Dr. Levine made a motion to approve the MAC's recommendations for remedial training; s/Low; motion carried (1 abstention).

Faith Gibson stated there was a statistically improbable number of maternal demise or deaths reported in the most recent midwifery survey that was provided to the Legislature. OSHPD investigated and discovered there was a high level of error or misunderstanding in the reporting, in part due to the survey design. New data was collected from these midwives. The redesigned survey will be mandatory and will be done on-line to allow pop-up screens to provide clarification on some of the definitions. In addition, Robin Jones will provide in-service education on completing the survey at four different locations throughout the state. Ms. Gibson suggested a notation be included in the report to the Legislature that the data includes

information from midwives who are licensed in California but are currently practicing out of state or in other countries. Ms. Yaroslavsky suggested that all the members receive a copy of the survey form for future reference.

Agenda Item 14 Proposed Amendments to Section 1328 of Title 16 CCR (Acceptable Written Examinations)

This section enumerates the combination of written examinations that are acceptable to the Board for the issuance of an initial physician and surgeon's license. Staff is recommending the regulation be amended to included USMLE steps 1 and 2 combined with NBME part 3 as an acceptable combination of examinations for licensure and that a regulatory hearing be scheduled at the April 2010 Board meeting.

Dr. Low made a motion to approve staff's recommendation; s/Chang; motion carried.

Agenda Item 15 Midwifery Advisory Council Nominations and Approval

The MAC consists of six positions: three California licensed midwives in good standing and three public members, two of which are obstetrician/gynecologists and one is a member of the Board. There are currently two vacancies on the MAC. Staff is asking the Board to reappoint Faith Gibson and Ruth Haskins, M.D. to three-year terms on the MAC.

Ms. Yaroslavsky made a motion to reappoint Faith Gibson to a three-year term; s/Chang; motion carried. Ms. Yaroslavsky made a motion to reappoint Dr. Ruth Haskins to a three-year term; s/Duruisseau; motion carried.

Agenda Item 16 Approval of Nizhoni Midwifery Institute

Ms. Pellegrini reported the Board received an application for recognition from the Nizhoni Midwifery Institute in San Diego. Robin Jones conducted an evaluation of the program and its compliance with requirements in law. Staff recommends the recognition of the Nizhoni Midwifery Institute.

Dr. Moran made a motion to approve staff's recommendation and that the recognition of the Nizhoni Midwifery Institute be retroactive to the date of the achievement of the pre-accreditation status from the Midwifery Education Accreditation Council (MEAC) of July 2, 2009; s/Duruisseau; motion carried.

Agenda Item 17 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 13 Orders Restoring License Following Satisfactory Completion of Probation, 16 Orders Issuing Public Letters of Reprimands, and 3 Orders for License Surrender During Probation.

Dr. Low made the motion; s/Moran; motion carried.

B. Expert Utilization Report

Ms. Threadgill directed members to page 129 of the packets for a chart reflecting the use of experts by specialty during the past quarter. She reported the list of active experts has increased from 11,038 to 11,052 since the last report. She reported Ms. Choong and Brett Michelin, CMA, have indicated they will continue to assist the Board in obtaining additional experts and in improving the quality of these experts by encouraging the local medical societies to allow Board representatives to attend their meetings and provide training.

C. Enforcement Program Update

Ms. Threadgill reported the Enforcement Program has an overall vacancy rate of 10%; this does not include vacant positions that have candidates identified and moving through the selection process. The Probation Program currently has no vacancies.

In April 2010 the Operation Safe Medicine (OSM) Unit is scheduled to move into office space in San Dimas along with the Diamond Bar District Office and Probation staff. Currently, OSM has more than forty unlicensed practice cases under investigation.

The Complaint Unit has successfully implemented a transition to the utilization of electronic medical records whenever possible which should expedite cases.

The Enforcement Program will soon be able to provide investigators with desk access to CLETS, a law enforcement tracking system. This will allow them to obtain accurate information more quickly, as they will be able to run their own searches.

Last year, the Enforcement Program pursued the purchase of videoconferencing equipment, however, the contracts were suspended. Enforcement will resurrect this issue and once again attempt to obtain a contract for purchase in order to increase efficiency and reduce travel costs.

The CRIMS project has transitioned into the Department's BreEZe project. Staff will remain involved in the project to ensure the Board's requirements are fulfilled.

Enforcement continues to review older cases in its Age Case Council. Since starting the Council, the number of cases older than 600 days has been reduced by fifty percent. In December 2009, the San Diego District Office was able to clear seventeen cases that resulted in administrative or criminal findings.

The Probation Office is currently monitoring 107 probationers that have biological testing requirements; thirty-two of these probationers are out of state and are pended (not currently being tested). There were twenty-eight positive tests in the last quarter of 2009; these will be handled with probation violations.

In 2004 there were 392 decisions, stipulations, Public Letters of Reprimand, Petitions to Compel Exams, Petitions for Reconsideration, and other items sent to panel members for a vote; in 2005 there were 356; in 2006 there were 340; in 2007 there were 373; in 2008 there were 238; and in 2009 there were 274. The drops in the past two years are attributed to defaults and surrenders that are signed off by the Executive Director and no longer require a vote by members.

Ms. Threadgill reported a presentation on medical marijuana will be given at the April 2010 meeting.

D. Request to Establish an Enforcement Committee to Assist Staff

Ms. Threadgill requested the Board to establish an Enforcement Committee to review issues such as the upfront specialty reviewer timelines and the Board's current medical marijuana guidelines.

Ms. Chang made a motion to establish and Enforcement Committee; s/Duruisseau; motion carried.

Ms. Yaroslavsky asked Dr. Low to chair the Enforcement Committee and Dr. Chin and Ms. Schipske to serve on the Committee. She invited other members to notify her if they were also interested in serving on the Committee.

Agenda Item 18 Vertical Enforcement Program Report

Ms. Threadgill directed members to page 134 of their packets for statistics on the Vertical Enforcement (VE) Program. Senior Enforcement staff continues to meet quarterly with Carlos Ramirez and supervising deputy attorney generals from the Health Quality Enforcement Section. At the most recent meeting, an agreement to engage in joint training was reached. Mr. Ramirez reported training modules will be developed on record acquisition, physician interviewing, and expert witness selection and performance at hearings.

Agenda Item 19 Licensing Committee Update and Consideration of Committee Recommendations

Dr. Salomonson reported the Committee reviewed a statutory amendment on the validity of test scores with a simple change in the language. Regulatory issues discussed included the timeline for an application being considered "open", the implementation of a limited license, issues surrounding the PTAL, and oversight of sleep technologists. Future agenda items include a review of the Licensing Program BPR Study, prioritization of applications, an audit of the Licensing Program, and the aforementioned regulations.

Agenda Item 20 Special Task Force on International Medical School Recognition – Consideration of Recommendations

Dr. Low reported the Special Task Force on International Medical School Recognition was formed this month with Dr. Gitnick and himself as the two members. The purpose of the Task Force is to review the procedures the Board uses to review international medical schools. B&P Code Section 2084 authorizes the Division of Licensing to approve the medical schools that comply with the medical education requirements in Section 2089 and 2089.5 of the Code. Medical schools located in the US, Canada and Puerto Rico are deemed approved by the Division of Licensing through their accreditation by the Liaison Committee on Medical Education (LCME). All other medical schools are subject to the Division's individual review and approval and must demonstrate that they offer a resident course of professional instruction that is equivalent to that provided in LCME accredited medical schools.

Dr. Low provided historical information on the emergence of international medical schools and the need for a task force to review and approve these programs. He reported there is currently a backlog of four international medical schools with pending applications dating back to March 2008; the most recent application was submitted in November 2009. There are also three international medical schools requiring a seven year re-evaluation for 2010 that includes a site visit. Historically, there have been two consultants to review these applications: Dr. Simon and

Dr. Nuovo. The reviews have been interrupted by a freeze imposed by the Governor from July through November of 2008, the illness of one of the consultants and the unavailability of the other consultant due to teaching responsibilities.

Ms. Pellegrini and Pat Park have developed a solution that requires the hiring of two additional consultants to assist in the review process to resolve the backlog problem and keep reviews current. Dr. Joe Silva, former dean of the UC Davis School of Medicine, has been hired as one of the consultants. Dr. Simon will be providing in-depth training to Dr. Silva. The Board is in the process of recruiting a second consultant.

Ms. Yaroslavsky asked about the status of one of the schools with a pending application. Dr. Low indicated that institutions opening a second campus are only required to submit paperwork for review; a site visit is typically not required. Once staff is satisfied that the program has met all requirements the consultant will make a recommendation to the Board to require a site visit, approve, or deny the application for recognition.

Dr. Salomonson expressed her concerns over the depth of review that could be provided by the Board.

Agenda Item 24 Wellness Committee Update and Consideration of Committee Recommendations

Dr. Duruisseau summarized the findings from the Committee's survey to identify wellness resources throughout the state. There was great variability in the availability of wellness programs in hospitals and physician groups. Most respondents indicated they would utilize additional wellness resources if they were made available by the Board. A difference of opinion emerged on whether wellness education should be mandated as part of CME requirements or incentivized. Dr. Gregg was asked to work with staff to identify the next steps the Committee should pursue and report back to the Committee.

The feasibility of creating a "best practices" manual for the wellness programs was discussed. Staff was asked to set up a meeting with interested parties to explore this idea. An update on the collaboration between UC Davis and the Board was provided at the Committee meeting. The Committee has no recommendations to the Board at this time.

Agenda Item 25 Physician Assistant Committee Update

Dr. Low reported the Physician Assistant Committee (PAC) adopted a new Strategic Plan at the November 5 meeting. A regulatory hearing will be held at the PAC's next meeting on February 18, 2010 on the proposal to require that licensees who are mandated to participate in the diversion program as a condition of probation pay the full amount of the monthly participation fee charged by the contractor. Licensees voluntarily enrolled in the program would be required to pay 75% of the monthly participation fee charged by the contractor.

The PAC website has been enhanced: a Career page has been added to provide information about the PA profession and additional reports are now included for the Diversion, Licensing and Enforcement statistics.

Agenda Item 26 Federation of State Medical Boards Update
Ms. Chang reported FSMB has provided the Board with a copy of its Maintenance of Licensure (MOL) initiative and has asked the Board to provide comments. The Federation has opened an advocacy office in Washington DC to lobby for public protection and access to care.

Agenda Item 27 Strategic Plan Update
Ms. Yaroslavsky directed members to review the Strategic Plan included in their packets. Ms. Yaroslavsky and Ms. Whitney will work during the next quarter to review and update the Strategic Plan.

Agenda Item 28 Agenda Items for April 29-30, 2010 Meeting
Ms. Yaroslavsky asked for a possible lunch presentation to the Board by Dr. Dowling, head of family medicine at UCLA, on facilitating the entry of physicians trained in World Health Organization hospitals into healthcare positions after passing the first level of the USMLE.

Ms. Yaroslavsky requested a discussion be held on the issues surrounding the loss of family medicine residency programs from non-university teaching hospitals.

Agenda Item 22 Adjournment
There being no further business, the meeting was adjourned at 4:00 p.m.

Barbara Yaroslavsky, President

Hedy Chang, Secretary

Linda K. Whitney, ~~Interim~~ Executive Director