MEDICAL BOARD OF CALIFORNIA

EDUCATION AND WELLNESS COMMITTEE MEETING AGENDA

COMMITTEE MEMBERS
Barbara Yaroslavsky, Chair
Denise Pines
Howard Krauss, M.D.
Gerrie Schipske, R.N.P., J.D.

Four Points by Sheraton Sacramento
International Airport
Natomas Room
4900 Duckhorn Drive
Sacramento, CA 95815
(916) 263-9000 (directions only)

Thursday, January 29, 2015
1:00 p.m. – 2:00 p.m.
(or until the conclusion of business)

Teleconference – See Attached
Meeting Information

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

While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.

Please see Meeting Information Section for additional information on public participation

ORDER OF ITEMS IS SUBJECT TO CHANGE

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE.
If a quorum of the Board is present, Members of the Board who are not Members of the Committee may attend only as observers.

1. Call to Order/Roll Call – Ms. Hockenson

2. Public Comments on Items Not on the Agenda
   Note: The Committee 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 §§11125, 11125.7(a)]

3. Approval of the Minutes from the July 24, 2014 Education and Wellness Committee Meeting

4. Presentation on the Corporate Practice of Medicine – Ms. Webb, Ms. Dobbs, and Mr. McGlone

5. Public Affairs Office Strategic Plan Update - Ms. Hockenson

6. Future Agenda Items

7. Adjournment

The mission of the Medical Board of California is to protect health care consumers through the proper licensing and regulation of physicians and surgeons and certain allied health care 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.

Meeting Information

This meeting will be available via teleconference. Individuals listening to the meeting will have an opportunity to provide public comment as outlined below.

Thursday, January 29, 2015 - The call-in number for teleconference comments is:

1-800-230-1074

Please wait until the operator has introduced you before you make your comments.

To request to make a comment during the public comment period, press *1; you will hear a tone indicating you are in the queue for comment. If you change your mind and do not want to make a comment, press #. Assistance is available throughout the teleconference meeting. To request a specialist, press *0.

During Agenda Item 2 – Public Comments on Items Not on the Agenda, the Board has limited the total public comment period via teleconference to 20 minutes. Therefore, after 20 minutes, no further comments will be accepted. Each person will be limited to three minutes per agenda item.

During public comment on any other agenda item, a total of 10 minutes will be allowed for comments via the teleconference line. After 10 minutes, no further comments will be accepted. Each person will be limited to three minutes per agenda item.

Comments for those in attendance at the meeting will have the same time limitations as those identified above for individuals on the teleconference line.

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

For additional information, call (916) 263-2389.

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 Lisa Toof at (916) 263-2389 or lisa.toof@mbc.ca.gov or send a written request to Lisa Toof. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

MEDICAL BOARD OF CALIFORNIA
Executive Office

Education and Wellness Committee Meeting

Agenda Item 3

Courtyard by Marriott – Cal Expo
Golden State Room A & B
1782 Tribute Road
Sacramento, CA 95815
916-929-7900 (directions only)

Thursday, July 24, 2014
2:15 p.m. – 3:45 p.m.

MINUTES

Agenda Item 1 Call to Order/Roll Call

The Education and Wellness Committee of the Medical Board of California (Board) was called to order by Chair Barbara Yaroslavsky at 2:15 p.m. A quorum was present, and due notice had been mailed to all interested parties.

Members of the Committee Present:
Barbara Yaroslavsky, Chair
Howard Krauss, M.D.
Denise Pines

Members of the Committee Not Present:
Gerrie Schipske, R.N.P., J.D.

Staff Present:
Susan Cady, Staff Services Manager II
Dianne Dobbs, Legal Counsel, Department of Consumer Affairs
Cassandra Hockenson, Public Affairs Manager
Kimberly Kirchmeyer, Executive Director
Armando Melendez, Business Services Analyst
Destiny Pavlacka, Administrative Assistant
Regina Rao, Business Services Analyst
Jennifer Simoes, Chief of Legislation
Kevin Schunke, Licensing Outreach Manager
Renee Threadgill, Chief of Investigation, Health Quality Investigative Unit
Lisa Toof, Administrative Assistant
See Vang, Business Services Analyst
Kerrie Webb, Staff Counsel
Curt Worden, Chief of Licensing
Christine Zimmer, Staff Services Manager I

Members of the Audience:
Theresa Anderson, California Alternate Performance Assessment
Gloria Castro, Senior Assistant Attorney General, Attorney General's Office
G.V. Ayers, Consultant, Senate Business, Professions and Economic Development Committee
Adam Brearly, Investigator, Health Quality Investigative Unit
Yvonne Choong, California Medical Association
Scott Clark, California Medical Association
Barbara Couden Hernandez, Ph.D., Loma Linda University
Zennie Coughlin, Kaiser Permanente
Frank Cuny, California Citizens for Health Freedom
Julie D'Angelo Fellmeth, Center for Public Interest Law
Michael Goldstein, Ph.D., University of California, Los Angeles
Marian Hollingsworth, Consumers Union
Sharon Levine, M.D., Board Member
Jessica Nunez de Ybarra, M.D., California Department of Public Health
David Serrano Sewell, J.D., Board Member
Mike Small, Department of Justice
Cesar Victoria, Department of Consumer Affairs

Agenda Item 2 Public Comment on Items Not on the Agenda

No public comments were received

Agenda Item 3 Approval of Minutes from the February 6, 2014, Education and Wellness Committee Meeting

Dr. Krauss made a motion to approve the minutes from the February 6, 2014 meeting; Ms. Pines/seconded. Motion carried.

Agenda Item 4 Presentation on Healthy Living Program

Dr. Hernandez, Loma Linda University Wellness Campaign, spoke on the emotional health of the physician population, more specifically, the psycho-social health. She explained that she was asked to create a prevention program designed to enhance physician satisfaction and general well-being. She created a needs assessment by surveying physicians across the career path to find their issues, which ranged from free food to help with professional development.

Dr. Hernandez talked about the strategic plan put into place, starting with basic support for the first couple of years, then figuring out a positive outcome in terms of making self-care a priority. She discussed the medical humanities concentration, peer coach training and a facility peer coach training program, and continued with a discussion on grand rounds that are put together regarding psycho-social issues, such as suicide prevention, burn out prevention, resilience management, family conferences and delivering bad news.

Dr. Hernandez stated, in terms of the outcomes, that objective data is being sought in order to report the effectiveness of these programs. Dr. Hernandez stated that, while students bring the typical types of issues such

as time management, trying to balance life, and self-defeating attitudes, they are being taught through coaching, how to get what they need from a positive experience. They also learn that to seek help is not a sign of weakness. Dr. Hernandez concluded by stating that the campaign is addressing the emotional and spiritual health of physicians, noting that physical health is often affected by mental health.

Dr. Krauss stated that the Board is eager to hear any recommendations Dr. Hernandez may have in terms of how the Board can encourage physician health and still deal with public safety.

Dr. Hernandez commented on how Loma Linda has a very active and effective impaired physician program.

Dr. Krauss asked if Dr. Hernandez had any comments or advice to offer the Board in terms of what approach it should take in either sponsoring a physician's health program or expecting the community to be responsible for such a program.

Dr. Hernandez suggested the Board have some sort of mechanism for monitoring and support in place for physicians, not just punitive actions.

Ms. Yaroslavsky asked Dr. Hernandez what criteria she used to measure success.

Dr. Hernandez stated that she keeps track of how many physicians come to her that want to quit or who are suicidal or depressed. She stated that a monetary value was still trying to be identified.

Ms. Yaroslavsky suggested the that dollar value is not the only way to measure success, and noted that the Board looks to her for possible suggestions. Ms. Yaroslavsky continued to say the Board believes that prevention comes first and the physicians should be educated in prevention from the beginning. The Board wants to provide information through outreach and the Board's Newsletter. She stated the Board is being more proactive and asked if there items that Dr. Hernandez can point to where the Board could provide information.

Dr. Hernandez responded with there are a number of assemblies where the Dean for Academic Affairs talks about the various resources that are available on campus and when issues arise, where to go and how to get help.

Marian Hollingsworth, Consumers Union, asked if a doctor who clearly has an addiction or needs help is reported to the Board, or is it discreet. She also asked about the religious basis for this program.

Dr. Hernandez responded with the religious basis is Seventh Day Adventists and that in terms of the reporting to the Board, she is not a part of that segment.

Ms. Yaroslavsky thanked Dr. Hernandez for her participation.

Michael Goldstein, Ph.D., Professor of Public Health and Sociology, spoke on the healthy campus initiative at University of California, Los Angeles (UCLA) stating that it was started by Chancellor Dean Block who wanted to make UCLA the healthiest campus in America. Dr. Goldstein also spoke about how difficult it was to define "healthy" and to find successful programs already in place because there were no best practices. Dr. Goldstein decided on a social movement model rather than a problematic intervention model, noting that society has not made healthy choices, but easy choices and that the bad choices, that people make are typically people carrying

out the norms. These unhealthy norms reflect the needs of certain groups in society who benefit from people making these unhealthy choices.

Ms. Yaroslavsky commented that the model she sees on the campus can be translated easily to any corporate American company, any business or any entity, and asked how many people are on campus at any given time.

Dr. Goldstein replied that there are about 28,000 students every day.

Dr. Krauss questioned if sexual assault is an issue on the UCLA campus.

Dr. Goldstein replied it was an issue. He stated that this issue also demands cultural change, from the student's perspective.

Ms. Yaroslavsky commented, with the norms being anti-health, UCLA is creating a new culture within the University, but most of the people going to the school live outside of the campus. How does that impact the project?

Dr. Goldstein stated at this time he does not have a solution.

Agenda Item 5 Let's Get Healthy California Task Force Report and the California Wellness Plan

Dr. Nunez de Ybarra, California Department of Public Health (CDPH), presented an update on "Let's Get Healthy California Task Force (LGHCTF)" Report as well as the California Wellness Plan. She stated that her objectives are to inform the Board about the LGHCTF report from 2012, to tell a little about the plan for California wellness that was just released in 2014, and to provide a quick glimpse of some opportunities that may be coming to California in the form of the California state innovations model federal funding.

Dr. Nunez de Ybarra stated that the CDPH is trying to eliminate disparities and that creating healthy communities and lowering costs need to be addressed, and all areas should be measured for success and failure.

Dr. Nunez de Ybarra explained that outcomes for the plan include an understanding of the multiple factors that contribute to chronic disease, increased transparency of the activities at the CDPH, a road map for collaborations between CDPH and other long standing partners, and the ability to measure improvements in chronic disease outcomes in equities and costs. She commented that one of the goals would be best served by improving patient and community health and by building on strategic opportunities that are here in California as a result of the Federal Patient Protection and Affordable Care Act.

Dr. Nunez de Ybarra suggested that the Board also look at the opportunity of new prevention services that are to be in place for health insurance plans without any co-pays for enrollees and to look at what can be done if California is on target to expand managed care specifically in the medi-caid population. She added that health economists will be hired soon to provide a real return on investments analysis of CDPH activities and a health reform coordinator will look at the opportunities and make sure nothing is missing in terms of the Patient Protection and Affordable Care Act.

Dr. Nunez de Ybarra continued by saying it is larger than CDPH because health is a group effort and the California Wellness Plan was scrutinized and approved by the Agency Secretary as a core document. In addition, approval from the Department of Finance means it can stand up to any scrutiny, noting that the Secretary is applying for a hundred million dollar Center for Medi-Care and Medi-Caid Services Innovation Grant over the next few years.

Dr. Krauss thanked Dr. Nunez de Ybarra for attending and commented that this is a very exciting program she is spearheading and wanted to know if the Board would be a welcome partner to the organization.

Dr. Nunez de Ybarra responded that the Board expressed interest in this plan at a previous meeting and yes, the Board is a welcomed partner to the organization.

Ms. Yaroslavsky questioned the role of the insurance companies and their participation in reimbursements for wellness and in activities that lead to better health.

Dr. Nunez de Ybarra stated when thinking about changing communities and getting healthier, this is the template.

Frank Cuny, Executive Director of California Citizens for Health Freedom spoke on the bill they will be sponsoring next year which will make integrated medicine legal in California so that physicians, naturopathic doctors, and particularly oncologists will legally be able to do integrative treatments or holistic approaches.

Agenda Item 6 Education and Wellness Committee Strategic Plan Update

Ms. Hockenson stated that she took information pertinent to the Board's Public Affairs' Office from the strategic plan and provided updates under tab 6. Ms. Hockenson then noted that she has examples of outreach and activities that have been done to meet strategic plan goals. Since time was limited she stated she would give a full update at the next meeting.

Agenda Item 7 Future Agenda Items

No future agenda items were provided.

Agenda Item 9 Adjournment

The meeting was adjourned at 3:47 p.m.

The complete webcast can be viewed at: http://www.mbc.ca.gov/About_Us/Meetings/2014/

DRAFT

CORPORATE PRACTICE OF MEDICINE PROHIBITION

Ian McGlone, Associate Analyst
Dianne Dobbs, Senior Staff Counsel
Kerrie Webb, Senior Staff Counsel

GOALS OF PRESENTATION

Help you to:

- Understand what the corporate practice of medicine is;
- Understand why the corporate practice of medicine is banned in California;
- Recognize some red flags physicians should look for that may indicate the corporate practice of medicine is involved; and

GOALS OF PRESENTATION

Help you to:

- Understand some of the consequences for physicians aiding and abetting the corporate practice of medicine.

Corporate Practice Prohibition

California law prohibits any person from practicing medicine in this state without a valid certificate of licensure.

BPC section 2052

Corporate Practice Prohibition

Corporations and other artificial legal entities shall have no professional rights, privileges, or powers under the Medical Practice Act.

BPC section 2400

Acts that require a medical license:

Under BPC section 2052, any person who practices or attempts to practice any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person must have a valid, unrevoked, or unsuspended certificate.

What Is the Corporate Practice of Medicine?

- A corporation or other entity practices medicine when it engages in any of the acts noted in BPC section 2052.

Why Ban The Corporate Practice of Medicine?

- Protect California patients from unqualified persons or heads of entities making or influencing medical decisions.
- Reduce the chances of divided loyalties between physician and employer and physician and patient.

Why Ban The Corporate Practice of Medicine?

- Minimize undue influence or interference with physician's judgment and physician-patient relationship.
  - Physicians should not be forced to choose between the dictates of the employer and the best interest of the patient.

Why Ban The Corporate Practice of Medicine?

…[T]he presence of a corporate entity is incongruous in the workings of a professional regulatory licensing scheme which is based on personal qualification, responsibility and sanction…

65 Ops.Cal.Atty.Gen. 223, 225 (1982)

Why Ban The Corporate Practice of Medicine?

In other words, the ban protects consumers so that those who make decisions which affect the provision of medical services:

1) understand the medical implications of those decisions;
2) have an ethical obligation to place the patient's interests ahead of their own; and
3) are subject to the enforcement powers of the Medical Board.

For Example

A physician, NOT an entity, must :

- Determine what diagnostic tests are appropriate for a particular condition;
- Determine the need for referrals to, or consultation with another physician or specialist;
- Be responsible for the ultimate overall care of the patient, including treatment options available to patient; and
- Determine how many patients he or she sees in a given time period, and how many hours to work.

Red Flags Indicating Corporate Practice of Medicine

- Entity owns and/or controls patient records;
- Entity determines what is or is not recorded in the records;
- Entity determines the selection, hiring and/or firing of physicians, allied health staff, and medical assistants;

Red Flags Indicating Corporate Practice of Medicine

- Entity sets parameters under which physician will enter into contractual relationships with third-party payers;
- Entity makes decisions on coding and billing procedures for patient care services;
- Entity decides what medical equipment and supplies to purchase for the medical practice.

What do these Red Flags look like on paper?

P.C.'s written request, remove from the Center any Administrative Staff member who does not perform to the reasonable satisfaction of P.C.

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(a) The Company shall bill and collect for all services rendered by the P.C. and its Providers hereunder as agent for the P.C. All of the payments with respect to such

4. Responsibilities of the P.C.

4.1 Professional Services. During the term of this Agreement, the P.C. shall be solely responsible for all aspects of the diagnostic, therapeutic and related professional services delivered by the Providers at the Center, and for the selection, training, professional direction, supervision and employment or engagement of all Providers (as defined in Section 4.2 below). The Company may terminate this Agreement if the P.C. fails, within thirty (30) days after receiving written notice from the Company, to remove from the Center any Provider who the Company determines has materially disrupted or interfered with the performance of its obligations hereunder.

4.2 Time Commitment. The P.C. shall employ or engage and make available to the Center, sufficient physicians and other clinical professionals, such as nurses, x-ray technicians and medical receptionists, authorized to engage to the extent permitted by law in the urgent care and medical services provided by the Center (collectively referred to as "Providers") in adequate numbers to meet the urgent care and medical needs of the patients of the Center. The P.C. shall provide such services during normal business hours, as established in consultation with and subject to approval of the Company. The P.C. shall ensure that all work and coverage schedules meet the needs of patients of the P.C. in a competent, timely and responsive manner.

What do these Red Flags look like on paper?

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hereunder, without the pr

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any such Provider's employment agreement with the P.C., such Provider shall not, without the express written consent of the P.C., solicit verbally or in writing, any patient or former patient of the P.C., or otherwise interfere with such patient or former patient's relationship with the P.C. in connection with the provision of urgent care and medical services. Upon termination of any Provider's employme
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held by or known to
and/or any Provider during the term of this Agreement shall be the property of the Company, free of any reserved or other rights of any kind on P.C. and/or any Provider's part in respect thereof, and P.C. and/or any such Provider hereby assign all rights therein to the Company.

12. Proprietary Rights.

(b) All works, discoveries and developments, whether or not copyrightable, relating to the Company's present, past or prospective activities, services and products ("Inventions") which are at any time conceived or reduced to practice by P.C. and/or any of its Providers, acting alone or in conjunction with others, in connection with the Company's management of the P.C. or, during the course of the P.C.'s employment or engagement of Providers (or, if based on or related to any Confidential Information, made by P.C. and/or any Provider during or after such management by the Company or employment or engagement by the P.C.) and all concepts and ideas known to P.C. or any Provider at any time during the Company's management of the P.C. which relate to the Company's present, past or prospective activities, services and products ("Concepts and Ideas") or any modifications thereof held by or known to P.C. and/or any Provider on the date of this Agreement or acquired by P.C. and/or any Provider during the term of this Agreement shall be the property of the Company, free of any reserved or other rights of any kind on P.C. and/or any Provider's part in respect thereof, and P.C. and/or any such Provider hereby assign all rights therein to the Company.

What do these Red Flags look like on paper?

(d) payroll processing;

(e) public relations;

(f) facilities management;

(g) c

(h) c

(i) c

(j) c

(k) c

(l) c

(m) i

(n) c

(o) a

(j) client scheduling protocol design;

(k) client service and complaint handling;

(l) clinic management analysis;

(c) The Com

Practice:

(i) the assignment of Providers to treat patients, including determining how many patients a physician must see in a given period or how many hours a physician must work;

(ii) assumption of responsibility for the care of patients, including treatment options available;

(iii) serving as the party to whom bills and charges are made payable;

(iv) determining what diagnostic tests are appropriate for a particular condition;

(v) determining the need for referrals to or consultation with another healthcare provider; or

(vi) any activity that involves the practice of medicine and the provision of medical services or that would cause the Clinic to be subject to licensure under applicable laws and regulations in _____ (**State**).

5.3 **Administrative Staff**. Subject to the requirements of applicable Laws, the Company shall, on the terms and conditions specified in this Agreement, employ or engage and make available to the Clinic, on a non-exclusive basis, sufficient non-clinical personnel and administrative staff (herein referred to collective as "Administrative Staff"). The hiring, firing, disciplining and determination of compensation and benefits of the Administrative Staff shall be within the sole discretion of the Company; provided, however, that the Company may, at the Practice's written request, remove from the Clinic any Administrative Staff member who does not perform to the reasonable satisfaction of Practice

Page 5

Warning!

- Even if a franchise arrangement has been approved by the Department of Business Oversight, that does not mean that a physician's involvement is legal!

- Even if a corporation is registered with the Secretary of State, that does not mean that a physician's involvement is legal!

Warning!

- Be alert that some management services agreements may say most of the right things on paper, but still leave clues as to who is in charge.

Who is really in charge here?

consent of the Practice, solicit verbally or in writing, any patient or former patient of the Practice, or otherwise interfere with such patient or former patient's relationship with the Practice in connection with the provisions of medical services. Upon termination of any Provider's employment with the Practice, the Practice shall promptly notify the Provider's patients of how and where to contact the Provider.

13. Proprietary Rights. The Practice recognizes and acknowledges that all records, files, reports, protocols, polities, manuals, data bases, processes, procedures, computer systems, materials and other documents used by the Company (or its affiliates) in rendering services hereunder, or relating to the operations of the company (or its affiliates), belong to and shall remain the property of the Company, and constitute proprietary information and trade secrets that are valuable, special, and unique assets of the Company's business ("Confidential Information"). The Practice shall not, and shall assure that each of its Providers shall not, during or after the term of this Agreement, disclose any Confidential Information of the Company (or its affiliates), or the terms and conditions of this Agreement to any other firm, person, corporation, association, or other entity for any reason or purpose whatsoever, without the written consent of the Company or its respective affiliates.

unreasonable in nature, duration or geographic scope, then the Practice agrees that such court or arbitrator shall reform such restrictive covenant so that such restrictive covenant is enforceable to the maximum extent permitted by law for a restrictive covenant of that nature, and such court or arbitrator shall enforce the covenant to that extent. If any court or arbitrator finds the Practice and/or any Provider has breached the restrictive covenant set forth in Section 10 or 11 above, then such restrictive covenants shall be extended for an additional period equal to the period of such breach.

15. Employment Agreements. The Practice agrees that it shall impose by contract on each of its Providers the obligation to abide by the applicable terms and conditions of this Agreement, including the restrictive covenants specified above. The Company and its affiliates are intended to be third-party beneficiaries of such contracts and the Company may, in its sole discretion, be a signatory to such contracts for purposes of enforcing against Providers the terms and conditions of this Agreement. Any liquidated damages pad to the Practice by Providers pursuant to contracts between the Practice and such Providers shall be assigned by the Practice and paid over to the Company.

16. Term and Termination.

(a) The term of this Agreement shall be for **[coterminous with franchise agreement]** years commencing on the date first written above, unless sooner terminated as set forth herein, and shall automatically renew for successive one (1) year terms unless either party gives the other

Paper vs. Practice

- The papers may say all of the right things, but if a complaint is received regarding the corporate practice of medicine, the investigation will focus on how the practice is conducted.

Other Prohibited Operating Structures

- Non-physicians owning or operating a business that offers patient evaluations, diagnosis, care and/or treatment;
- Physicians operating a medical practice as a LLC, LLP, or a general corporation;
- Management service organization arranging for, advertising, or providing medical services rather than only providing administrative staff and services for a physician's medical practice (non-physician control despite physician ownership and operation); and
- Physician acting as medical director when the physician does not own the practice (e.g. Medi-spa owned by non-physician, offering medical services).

How will the Board ever find out?

- Injured and/or dissatisfied patients;
- Advertisements that give clues that something is amiss;
- Other state agencies; and
- Competitors!

Tips to avoid this pitfall

- Know the traps!
  - If the entity is going to "take care of everything," that could be a sign of a problem!
- Know the resources!
  - MBC Website
  - Attorney General Opinions
  - Statutes
  - Case Law
  - Disciplinary Decisions

Tips to avoid this pitfall

- DO NOT rely on the entity's attorney to determine whether the arrangement is legal!

How Can Physicians Operate as a Corporate Structure?

- Comply with Moscone-Knox Professional Corporation Act (Cal. Corp. Code section 13400 et seq.), and BPC 2408

- **The make-up of a medical corporation is at least 51% physician owned and no more than 49% of other professionals listed in Corp Code section 13401.5, may be shareholders, officers, directors, or professional employees.**

- Use of Fictitious Name in accordance with BPC sections 2285 and 2415.

Consequences For The Corporate Practice of Medicine

- Aiding and abetting the unlicensed practice of medicine can lead to civil and criminal penalties, and result in an administrative action for unprofessional conduct.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
1876
MEDICAL BOARD OF CALIFORNIA

QUESTIONS???

Education and Wellness Committee
Strategic Plan Update January 29, 2015

Please Note: only activities assigned to the Public information Officer are listed in the update. In addition only those items that are due or have actions completed will have updates included.

Goal 2: Regulations and enforcement: Protect the public by effectively enforcing laws and standards.			
2.3	**Identify methods to help ensure the Board is receiving all the mandated reports.**		**High - 3**
Activities		**Date**	**Responsible Parties**
c.	Identify opportunities for placement of articles on mandatory reporting in professional newsletters/publications and provide content to be used.	July-2014 and ongoing	Public Information Officer
• **The Summer Newsletter had an article from the Los Angeles Coroner on the need for physicians to sign death certificates.** • **The Summer Newsletter had an article on the importance of physician's reporting pesticide poisoning to the local health departments and the protocol to file a report.** • **Board staff are completing an article for the coroners to include in their newsletter on the need for a coroner to report to the Medical Board pursuant to Business and Professions Code section 802.5.**			
d.	Conduct outreach on reporting requirements to all mandated reporters, as resources allow.	July-2014 and ongoing	Public Information Officer
• **On April 18, 2014, staff discussed mandatory reporting requirements involving hospitals and physicians with the San Bernardino Sun and LA Daily News.** • **On May 8, 2014, a presentation was provided to the California Association of Medical Staff Services in Sacramento addressing mandatory reporting requirements, specifically focusing on the Business and Professions Code sections 805 and 805.01 reporting process and requirements. Approximately 100 individuals were in attendance.** • **On June 13, 2014, staff had a conference call with the staff from Public Citizen to discuss the peer review process and reporting requirements.** • **On August 1, 2014, a presentation was provided to the California Association of Medical Staff Services in Riverside addressing the Business and Professions Code sections 805 and 805.01 reporting process.** • **On August 28, 2014 a presentation was given to the Rancho Los Amigos Rehabilitation hospital on the reporting requirements of Business and Professions Code 805.** • **On November 7, 2014 a presentation was given to the Los Angeles County Department of Health Services Quality Improvement & Patient Safety Program on Business and Professions Code 805/801.**			

Education and Wellness Committee
Strategic Plan Update January 29, 2015

Please Note: only activities assigned to the Public information Officer are listed in the update. In addition only those items that are due or have actions completed will have updates included.

Goal 3: Consumer and Licensee Education: Increase Public and Licensee awareness of the Board, its mission, activities and services.			
3.2	**Expand all outreach efforts to educate physicians, medical students, and the public, regarding the Board's laws, regulations, and responsibilities.**		**High - 2**
Activities		**Date**	**Responsible Parties**
a.	Engage in two or more consumer outreach events with area organizations, as travel permits.	Quarterly	Public Information Officer

- **On February 11, 2014, a presentation was provided to military retirees at McClellan Air Force Base on the role of the Medical Board.**
- **On March 20, 2014 a presentation on the Outpatient Surgery Setting Program and Task Force was provided to the California Ambulatory Surgery Association. The presentation was on the evolution of the surgery centers, what the Board is currently doing, legislative proposals for improving the outpatient setting requirements, and what is going to be done in the future.**
- **On March 24, 2014, the Medical Board participated in the ENOUGH! Rally at the State Capitol sponsored by the National Coalition Against Prescription Drug Abuse (NCAPDA). Board staff set up a table with information on the Medical Board, including how to file a complaint, and a presentation regarding how the Medical Board is battling this issues was provided.**
- **On April 2, 2014, a presentation on the Medical Board and its roles and duties was provided to a Consumer Health class at Sacramento State University.**
- **On May 8, 2014 staff spoke at the California Association of Medical Staff Services annual meeting held in Sacramento.**
- **On May 14, 2014, Board staff attended the Annual Franchise Tax Board Health Fair. Board materials were passed out and questions were answered about the Medical Board's roles.**
- **On May 21, 2014 staff spoke to the Annual Physician's Well-Being conference at the University of Riverside.**
- **On June 4, 2014, Board staff met with the Alzheimer's Association of California to discuss future articles in the Newsletter on issues impacting Alzheimer's and Dementia patients, as well as public speaking engagements and outreach by the Board to educate the Association on the Medical Board's roles and functions.**

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Activities		Date	Responsible Parties
a.	Engage in two or more consumer outreach events with area organizations, as travel permits. (continued)	Quarterly	Public Information Officer

- **On July 29, 2014, Board staff joined the State Bar of California and other State Consumer Agencies at its first Town Hall Meeting. This meeting was for the Hispanic community in Santa Ana California, hosted by Assemblyman Tom Daly's District Office. Board staff passed out materials in Spanish and provided a presentation on the Medical Board's roles and functions, concentrating on the complaint process. The presentation was made in both English and Spanish.**
- **On August 12, 2014 staff gave a presentation with Assemblywoman Beth Gaines at a Town Hall Meeting in Sun City Lincoln Hills.**
- **On August 25, 2014, staff gave a presentation at Assemblywoman Beth Gaines Town Hall in Roseville. The presentation centered on what the Medical Board does, how to check on a physician's license and how to file a complaint.**
- **On September 3, 2014, staff gave a presentation to the California Society of Addiction Medicine in Anaheim, California regarding treating substance abuse licensees.**
- **On September 10, 2014, staff attended a California Child Welfare Counsel Meeting in San Francisco regarding psychotropic medications and foster children.**
- **On September 11, October 9, and October 27, 2014, staff met with a work group at the California Department of Public Health to work on a statewide messaging campaign on the dangers of prescription drugs and the over prescribing of opiates.**
- **On September 12, staff made a presentation to the California Ambulatory Surgery Association regarding the Board's Outpatient Surgery Settings Program.**
- **On September 18, 2014, staff gave a presentation at a Town Hall meeting in Citrus Heights, sponsored by Assemblyman Ken Cooley and the California State Bar Association. The topic was consumer protection and what the Medical Board can do to help.**
- **On September 18, 2014, HQIU staff spoke at a seminar in Pleasanton sponsored by the California Department of Insurance regarding the investigative process.**
- **On September 26, 2014, staff gave a presentation at a town hall sponsored by Assemblyman Roger Dickinson in Sacramento. The topic was consumer protection and what the Medical Board does.**

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Activities		Date	Responsible Parties
a.	Engage in two or more consumer outreach events with area organizations, as travel permits. (continued)	Quarterly	Public Information Officer

- **On October 9, 2014 staff spoke to the Riverside District Attorney's office at a Consumer Protection Roundtable.**
- **On October 16, 2014, HQIU staff gave training on the investigative process to the Department of Insurance Fraud Unit in Ontario California.**
- **On October 27, 2014, Board staff gave a presentation for the Employers Fraud Task Force in the City of Commerce on utilization review. Staff also gave an interview in Spanish to Telemundo on the importance of filing a complaint and the Board's enforcement process.**
- **On October 30, 2014, HQIU staff gave a presentation at Arrowhead Regional Medical Center on impaired and disruptive physicians.**
- **On November 6, 2014, Laura Sweet and Board Member Dr. Lewis gave a presentation entitled "Discipline, Drugs, & Duties" to nurses and physicians in San Diego at the 2014 Multidisciplinary Correctional Healthcare Conference.**
- **On November 12, 2014, staff gave a presentation to two separate Consumer Health Classes at California State University Sacramento. The presentation concentrated on the consumer protection mission of the Board as well as the new Prescribing Guidelines and the outreach the Board is engaged in regarding prescription drug misuse and abuse.**
- **On November 14, 2014 Board staff participated in the Valley High School Health Tech Academy's "Your Choice, Your Career" seminar.**

CURRENTLY SCHEDULED UPCOMING EVENTS

- **On Friday January 23, 2015, staff will be attending and making a presentation at a Scam Stoppers Town Hall sponsored by Assemblywoman Susan Bonilla in Walnut Creek, California.**
- **On Friday February 20, 2015, staff will be attending and making a presentation at a Scam Stoppers Town Hall in Citrus Heights, California.**
- **On March 4, 2015, staff will make a presentation at the Consumer Health Class at California State University in Sacramento.**
- **Staff is planning a Prescription Drug Awareness Campaign to coincide with March being Prescription Drug Awareness Month.**

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b.	Continue to provide articles and information in the Newsletter regarding potential violations to assist physicians in understanding the laws and regulations.	Quarterly	Public Information Officer
• **The Summer Newsletter had an article on recommending marijuana and things physicians should know.** • **The Summer Newsletter had an article on an article regarding the inadvertent unlicensed practice of medicine by postgraduate training individuals.** • **The Summer Newsletter had an article on what to know about signing death certificates.** • **The 2014 Fall Newsletter had an article entitled "Do Not Panic. What You Should Expect if a Complaint is Filed Against You." (This was part one of a two-part article.)** • **In the Fall Newsletter there was an article on POLST (physician orders for life sustaining treatment) from the Coalition for Compassionate Care of California.** • **The Winter Newsletter will have an article on Fictitious Name Permits.** • **The 2015 Winter Newsletter will have part two of the "Do not Panic" article that will discuss what happens during the investigative and disciplinary process.**			
c.	Launch a Twitter account to provide stakeholders with updates on best practices, changes in laws and regulations, and recent Board activities.	Aug-2014	Public Information Officer
• **Medical Board Staff sent out their first Tweet on January 14, 2015 announcing the release of the 2013/2014 Annual Report.**			
d.	Provide two or more articles to appropriate media outlets regarding laws and regulations and what they mean to stakeholders.	Quarterly	Public Information Officer
• **On October 6, 2014 an Op-Ed was written to the Knoxville Sentinel in response to an article they wrote indicating that California is prohibiting out-of-state physicians from crossing their borders to work at free health clinics. This was incorrect pursuant to the passage of AB 2699 which took effect in January of 2011 allowing physicians licensed in other states to provide volunteer healthcare services to the needy and uninsured on such a short-term basis.** • **Staff is working with the County of Los Angeles Department of Consumer Affairs regarding their 2014 Consumer Resource Directory (currently in editing stage.)** • **Board staff will be looking for opportunities to provide articles to media outlets.**			

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3.3	**Examine opportunities for the Board to provide training to licensees via the internet, including hosting webinars on subjects of importance to public protection and public health.**		**High - 3**
Activities		**Date**	**Responsible Parties**
a.	Work with DCA to establish webinar protocol and the tools needed to hold successful webinars.	Jun-2014	Public Information Officer
• **The new Public Information Officer will be focused on identifying needed webinars/training and moving forward with this objective.**			
b.	Work with healthcare agencies and organizations regarding topics of interest for training purposes.	Sep-2014	Public Information Officer
• **The Board is a key partner with the California Department of Public Health (CDPH) regarding the Statewide work group that seeks to curb prescription drug misuse and abuse. Additional plans for this campaign are in discussion.**			
c.	Develop interactive webinar content for licensees to promote public protection.	Jan-2015	Public Information Officer
d.	Conduct webinars to promote public protection.	Apr-2015 and bi-annually	Public Information Officer

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3.4	**Establish a proactive approach in communicating via the media, and other various publications, to inform and educate the public, including California's ethnic communities, regarding the Board's role in protecting consumers through its programs and disciplinary actions.**		**High - 4**
Activities		**Date**	**Responsible Parties**
a.	Expand and continue to cultivate relationships with various ethnic communities through their individual media outlets by providing information and education on the Board's role and responsibilities. Provides updates to the Board.	Quarterly	Public Information Officer
• **The Town Hall meetings discussed in 3.2a will be a key to developing this goal.** • **In April, 2014, Board staff (including a Spanish-speaking investigator) assisted Telemundo with a multiple-part series on consumer protection for the Hispanic community. The Board has established a good working relationship with Telemundo and will continue to identify ways to work with it in the future.**			
b.	Engage in television and radio interviews promoting transparency and providing needed information as requested.	Ongoing	Public Information Officer
• **Staff has been and continues to work with the San Jose Mercury News regarding the issue involving psychotropic drugs and foster kids.** • **MBC and DOI are working closely with KPIX/CBS in the Bay Area regarding a news story focused on the investigative process specific to a certain issue.** • **This is done on a daily basis with both California and National media.**			

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c.	Create PSAs and videos that can be placed online for viewing that address topics of interest as well as educate stakeholders.	Aug-2014 and ongoing	Public Information Officer
• **In April, 2014, a PSA was released to educate physicians on the prescription drug abuse epidemic.** • **In June, 2014, a PSA was released featuring Olympic Swimmer Natalie Coughlin designed to inform and educate consumers on the prescription drug abuse epidemic.** • **In July, 2014 a third and "extended version" of a PSA for the consumer was release featuring Natalie Coughlin.** • **A licensing tutorial was completed and placed on the website to assist students applying for a California Medical License that attended US or Canadian Medical Schools.**			
d.	Promote the Board's website and provide consumer friendly information on how to file a complaint.	Ongoing	Public Information Officer
• **Board staff is working on a video to be placed on the Board's website explaining how to file a complaint. The Board will promote this video once it is completed.** • **Board staff is working on a video to be placed on the Board's website explaining "how to look up your physician".**			

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3.5	**Establish a method for hosting public seminars taught by legal or enforcement personnel on disciplinary cases, laws violated, and other issues of importance to the profession and the public.**		**Med - 5**
Activities		**Date**	**Responsible Parties**
a.	Develop a list of groups who have shown interest for Board speakers in the past, in order to identify similar groups that the Board can reach out to for potential seminars.	Sep-2014	Public Information Officer
• **The Board staff has a list, and will continue to expand it in the future.**			
b.	Cultivate relationships with groups not previously engaged, in order to provide seminars.	Sep-2014	Public Information Officer
• **The Summer Newsletter had an article reaching out to readers and stakeholders offering speakers to provide presentations at meetings regarding the Board. Staff continue to advertise this availability in every Newsletter.**			
c.	Revise and update presentations already developed for the purpose of providing seminars.	Jan-2015	Public Information Officer, Senior Staff Counsel, and Enforcement Manager
d.	Conduct and record the seminar and post it on the Board's website.	Mar-2015 and ongoing	Public Information Officer, Senior Staff Counsel, and Enforcement Manager

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Goal 4: Organizational Relationships: Improve effectiveness by building relationships with related organizations to further the Board's mission and goals.			
4.2	**Improve educational outreach to hospitals, health systems, and similar organizations about the Board and its programs.**		**High - 2**
Activities		**Date**	**Responsible Parties**
b.	Provide presentations on the Board's roles, responsibilities, mandatory reporting requirements, and processes at hospitals, health systems, and similar organizations, as travel permits.	Quarterly	Public Information Officer and Appropriate Subject Matter Expert
• **See 2.3d and 3.2a above.** • **On June 18, 2014 and October 29, 2014, Board staff met with the UC Schools and the UC Regents representatives to discuss graduate medical education issues and overall application/licensing issues.** • **On November 6, 2014, Laura Sweet and Board Member Dr. Lewis gave a presentation entitled "Discipline, Drugs, & Duties" to nurses and physicians in San Diego at the 2014 Multidisciplinary Correctional Healthcare Conference.**			

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4.3	**Optimize relationships with the accreditation agencies, associations representing hospitals and medical groups, consumer organizations, professional associations and societies, the Federation of State Medical Boards, federal government agencies, and other state agencies, including the Department of Consumer Affairs and the Business, Consumer Services and Housing Agency.**		**High - 3**
Activities		**Date**	**Responsible Parties**
a.	Develop a contact list of representatives for stakeholder organizations.	Mar-2014 and update annually	Public Information Officer
• **The Public Information Officer is maintaining a contact list for the stakeholder organizations who have contacted the Board and will continue to add to this list.**			
b.	Offer to make presentations to all stakeholder organizations to provide educational information and updates on the Board's current activities, as travel permits.	May-2014 and ongoing	Public Information Officer
• **See 2.3d and 3.2a above.** • **The Summer Newsletter had an article reaching out to readers and stakeholders offering speakers to provide presentations at meetings regarding the Board.** • **On September 19, 2014, with a grant received from the Federation of State Medical Board, the Board held a 3 hour free CME seminar course in Los Angeles at the Hilton LAX on Safe Prescribing titled "Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and mitigation Strategy."**			

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c.	Maintain regular communication with stakeholders, including attending stakeholder meetings as appropriate, as travel permits.	Ongoing	Public Information Officer
• **Board staff met, and will meet on a quarterly basis, with the California Medical Association on issues of interest.** • **Board staff met, and will continue to meet, with Consumer's Union on issues of interest.** • **Board staff met with a specialty board regarding the impact of disciplinary action on a physician's board certification.** • **Board staff have attended webinars provided by the Federation of State Medical Boards (FSMB) and have provided input on issues raised by the FSMB.** • **Board staff meet with Department of Consumer Affairs Executive Staff on an ongoing basis.** • **Board Staff is working closely with CDPH.**			
d.	Invite stakeholders to participate in the Board's Newsletter with articles and information, approved by the Editorial Committee, pertinent to licensees.	Mar-2014 and ongoing	Public Information Officer
• **The Summer Newsletter had an article by the Los Angeles County Coroner.** • **The Summer Newsletter had an article provided by the Office of Environmental Health Hazard Assessment.** • **In the Fall Newsletter there was an article on POLST (physician orders for life sustaining treatment) from the Coalition for Compassionate Care of California.**			
e.	Provide activity reports to the Education and Wellness Committee.	At each committee meeting	Public Information Officer
• **Provided January 29, 2015**			

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Goal 6: Access to Care, Workforce, and Public Health: Understanding the implications of Health Care Reform and evaluating how it may impact access to care and issues surrounding healthcare delivery, as well as promoting public health, as appropriate to the Board's mission in exercising its licensing, disciplinary and regulatory functions.			
6.1	**Inform the Board and stakeholders on the Affordable Care Act (ACA) and how it will impact the physician practice, workforce, and utilization of allied healthcare professionals, and access to care for patients.**		**High**
Activities		**Date**	**Responsible Parties**
b.	Identify and obtain ACA articles to print in the Board's Newsletter.	Bi-annually	Public Information Officer
• **The President's Message in the Summer Newsletter focused on the ACA roll out.**			
c.	Educate physicians on opportunities to assist patients not within the ACA in obtaining access to care.	Bi-annually	Public Information Officer