



MEDICAL BOARD OF CALIFORNIA

QUARTERLY BOARD MEETING



Cal Expo Courtyard Marriott
1782 Tribute Road
Sacramento, CA 95815

Thursday, January 21, 2016

MEETING MINUTES

Due to timing for invited guests to provide their presentations, the agenda items below are listed in the order they were presented.

Members Present:

David Serrano Sewell, President
Denise Pines, Secretary
Michelle Bholat, M.D.
Michael Bishop, M.D.
Judge Katherine Feinstein (ret.)
Randy Hawkins, M.D.
Howard Krauss, M.D.
Kristina Lawson, J.D.
Sharon Levine, M.D.
Ronald Lewis, M.D.
Jamie Wright, J.D.
Barbara Yaroslavsky
Felix Yip, M.D.

Members Absent:

Dev GnanaDev, M.D.
Gerrie Schipske, R.N.P., J.D.

Staff Present:

Liz Amaral, Deputy Director
Ramona Carrasco, Staff Services Manager I
Charlotte Clark, System Information Services Analyst
Christina Delp, Chief of Enforcement
Dianne Dobbs, Legal Counsel, Department of Consumer Affairs
Dennis Frankenstein, Staff Services Analyst
Cassandra Hockenson, Public Affairs Manager
Kimberly Kirchmeyer, Executive Director
Nicole Kraemer, Staff Services Manager I
James Nuovo, M.D., Medical Consultant
Regina Rao, Associate Government Program Analyst
Elizabeth Rojas, Staff Services Analyst
Paulette Romero, Staff Services Manager II

Medical Board of California
 Board Meeting Minutes from January 22, 2016
 Page 2

Reylina Ruiz, Staff Services Manager I
 Jennifer Saucedo, Staff Services Analyst
 Jennifer Simoes, Chief of Legislation
 Lisa Toof, Administrative Assistant II
 Cesar Victoria, Department of Consumer Affairs
 Kerrie Webb, Staff Counsel
 Curt Worden, Chief of Licensing

Members of the Audience:

Teresa Anderson, California Academy of Physician Assistants
 Carmen Balber, Consumer Watchdog
 Stephen M. Boreman, Attorney, Slate, Links and Boreman, LLP
 Jonathan Burke, Department of Consumer Affairs
 David Chriss, Chief of Enforcement, Department of Consumer Affairs
 Zennie Coughlin, Kaiser Permanente
 Juan Pablo Cuellar, M.D., Associate Dean, UAG
 Ricardo del Castillo, Dean of Students, UAG
 Long Do, California Medical Association
 Karen Ehrlich, Licensed Midwife, Midwifery Advisory Council
 Rae Gruelich, Consumers Union
 Marian Hollingsworth, Consumers Union
 Sarah Huchel, Consultant, Senate Business and Professions Committee
 Terry Jones, Supervising Deputy Attorney General, Attorney General's Office
 Juan Carlos Leano, Chief Executive Officer, UAG
 Susana Leano, Vice President for International Affairs, UAG
 Sonya Logman, Deputy Secretary - Business and Consumer Relations, Business, Consumer
 Service and Housing Agency
 Mark Loomis, Supervisor Investigator I, Health Quality Investigation Unit
 Roberto Moya, Investigator, Health Quality Investigation Unit
 Lisa McGiffert, Consumers Union
 Tina Minasian, Consumers Union
 Michelle Monseratt-Ramos, Consumers Union
 Carrie Sparrevohn, Licensed Midwife, Midwifery Advisory Council

Agenda Item 1 Call to Order/Roll Call

Mr. Serrano Sewell called the meeting of the Board to order on January 22, 2016, at 8:32a.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Public Comments on Items not on the Agenda

No public comments were offered.

Agenda Item 3 Approval of Minutes from the October 29-30, 2015 Meeting

Dr. Lewis made a motion to approve the meeting minutes as written; s/Ms. Wright. Motion carried. (11-2) (Lawson – Abstain, Feinstein – Abstain).

Agenda Item 4 President's Report

Mr. Serrano Sewell introduced and welcomed Ms. Lawson and Judge Feinstein to the Board. The ceremonial swearing in was administered for both Ms. Lawson and Judge Feinstein.

Ms. Lawson stated she is looking forward to working with her new colleagues on the important issues that are before the Board.

Judge Feinstein thanked the Governor for appointing her to the Board. She stated, she, too, is looking forward to working with her new colleagues as well as the public who are generally interested in the issues that come before the Board.

Mr. Serrano Sewell stated he is looking forward to the opportunity to look at the issues that have priority to the Board. He noted that the committees are very important and that they are moving the consumer protection priorities one piece at a time.

Mr. Serrano Sewell stated that he and Dr. GnanaDev continue to meet with Ms. Kirchmeyer and staff on the Board's business and agenda items. He then referred the Members to pages BRD 4- 1 and BRD 4-2 in the Board packet, stating these pages show the updated Standing Committees. He noted that if any of the Members have suggestions or requested changes to that list, to contact Ms. Kirchmeyer for discussion and asked Ms. Lawson and Judge Feinstein to let Ms. Kirchmeyer know if there are any specific committees they would be interested in serving on.

He then stated that Judge Feinstein will be joining Panel A, and that he will be removing himself from that Panel since there is now a full complement of Board Members.

Agenda Item 5 Board Member Communications with Interested Parties

No communication was reported.

Agenda Item 14 Discussion and Possible Action on Universidad Autonoma de Guadalajara's Application for Recognition

Mr. Worden and Dr. Nuovo stated that after review and discussion of the initial evaluation of the Universidad Autonoma de Guadalajara School of Medicine, International Program (UAG), Board staff is requesting the Board to make a determination regarding UAG's proposed four-year curriculum for recognition by the Board. Staff is requesting Members to determine if the third and fourth year clinical rotations meet the minimum requirement pursuant to Business and Professions Code (BPC) section 2089.5 based upon the current information the Board has received.

Mr. Worden stated that if the Board determines the UAG meets the requirements, staff requests the Board approve the four-year curriculum for UAG. If the Board determines more information is needed before approving the four-year curriculum, staff would request additional information from UAG or ask the Board to authorize staff to perform a site visit to the school.

Mr. Worden referred the Members to Pages BRD 14-1 through BRD 14-19 where the submitted report can be found, as well as some information from the UAG. The additional document that was

handed out was an addendum that UAG recently provided to staff. That addendum addressed many of the original concerns shown in Dr. Nuovo's report.

Mr. Worden provided a brief background stating UAG is a private, non-profit medical school, founded in 1935, and located in Guadalajara, Mexico. UAG's medical school consists of the medical school program that primarily educates the citizens of Mexico to practice medicine in Mexico and the International Program that primarily educates citizens from other countries to practice medicine in other countries, including the United States. The Board currently recognizes UAG's medical school education that primarily educates the citizens of Mexico to practice medicine in Mexico, pursuant to California Code of Regulations (CCR) section 1314.1(a)(1). The Board also currently recognizes UAG's International Program's five-year curriculum pursuant to CCR section 1314.1(a)(2). UAG is requesting the Board to recognize a four-year curriculum for UAG's International Program.

Mr. Worden noted Board staff and Dr. Nuovo have completed the initial review, including the information that was recently received and Dr. Nuovo's report is included in the Board packet. He stated he and Dr. Nuovo have reviewed the latest information provided by UAG and one area that still needs further clarification is in the third and fourth year of clinical rotations that are completed in a UAG affiliated hospital in Mexico. He stated the percentage of time spent in ambulatory care versus in-patient care for each of the clinical rotations, needs to be clarified, especially the core rotations of the 54 weeks and the remaining 18 weeks.

Dr. Nuovo noted this is the sixth program that he has reviewed for the Board and stated he would focus his comments just on the area of concern. He stated while reviewing the information received from UAG, he found that the majority of the students experience in the third year came mostly from ambulatory care. He felt that information was inadequate to ensure the Board that the training of the four-year curriculum met the elements of BPC 2089.5. He noted that the additional information that was recently received lacks narrative to describe the nature of the experience. He needed clarification whether it is in-patient care and is of sufficient quality to ensure that the students meet the requirements of BPC 2089.5. He stated he does not feel that the information provided to date ensures that these core clerkships meet the requirements of BPC 2089.5 and feels further clarification from the school needs to be provided. He stated that in-patient experience is critical to the future development of the students and their capacity to be successful and to practice safely as they move into their internship and residency training.

Mr. Boreman introduced staff from the UAG. He introduced Susana Leano, Vice President for International Affairs; Juan Carlos Leano, Director and CEO; Ricardo del Castillo, Dean of Students; and Juan Pablo Cuellar, M.D., Associate Dean.

Mr. Boreman stated he understands Dr. Nuovo's concerns and has asked the staff from the UAG to attend the meeting to help answer any questions the Board may have. He noted that UAG already requires four weeks of family practice, and eighty hours of clinical training. He stated that UAG does require 54 weeks of in-hospital training, but understands there is some concern about how much of that is in-patient and how much is ambulatory in the surgical rotation.

Mr. Serrano Sewell asked if the report is complete. Mr. Worden stated the family practice is not an issue at this time, the biggest concern is the time spent between in-patient versus ambulatory at the end of 54 core weeks of training.

Dr. Cuellar stated in regard to the clinical rotation and the in-patient and ambulatory hours, students get 80 weeks of rotation, where in the third year, the timing could vary quite a bit. He stated that students who go to the hospitals and have an in-patient experience that could be 50% or more of the time, however, it could also be more than 50% of the time as ambulatory, but it averages out to be between 50-60% of the time in one area or the other. He noted that when a student is in the hospital setting, the student always has a teacher, professor or specialist with them when doing in-patient care. The professional asks the students to evaluate the patients under their supervision. For the ambulatory care, it is always done inside the hospital where the students practice their knowledge that they learned in the first and second semester. He stated that with the size of the hospital, the students have the opportunity to see many different types of illnesses and/or diseases to learn from them.

Dr. Nuovo stated that although there is a blend of ambulatory and in-patient training, the concern is whether the students receive adequate in-patient experience on each of the core clerkships, whether it be internal medicine, Ob/Gyn, pediatrics, psychiatry, etc. He is concerned whether they are seeing an adequate number of patients in which they do what would be expected of a student. Dr. Nuovo would expect the student to have the opportunity to take a history on a patient and to perform a physical exam on a patient, under the guidance of their supervising attending physician. Also, he expects students to formulate an assessment of that patient, create a plan of care and to write notes that are reviewed by the attending to determine if they are developing their knowledge and skills on all those different areas of medicine. Dr. Nuovo further indicated that there needs to be a methodology to assess the competence of the student.

Dr. Nuovo stated that even with the current information submitted by the UAG, it still does not provide enough sufficient detail on the requirements of the students. He feels that the documentation seems to be skewed toward ambulatory training, yet the professional development of students does require intense in-patient training in which they have the opportunity to perform a history, exam, etc. He stated he is still concerned about whether this is observational or hands on.

Dr. Lewis noted that the Board has been licensing physicians from UAG for several years and states he is seeing a difference in the focus of medical training changing from in-patient to ambulatory. He is concerned that UAG has a blend of the in-patient and ambulatory training where the traditional in-patient training seems to be less in medical education than a blend of both. He is asking if Dr. Nuovo is seeing an anomaly here where over the years the Board has been licensing these students.

Dr. Nuovo stated that many schools have restructured their curriculum to emphasize ambulatory training, where from even the first day, they are paired up with a longitudinal preceptor over the four years they are in training to get a better understanding of ambulatory medicine. But, even with that being the case, he does not feel that there is sufficient description of the in-patient experience to ensure that this four-year program meets the requirements discussed.

Ms. Kirchmeyer noted that the UAG five-year program is still being recognized by the Board. This approval is for the program that was branched off to make a four-year program where they are training individuals who are not their citizens.

Dr. Cuellar stated that they ask incoming students how many clinical hours they have done in several different areas and it is all reported in their files. He noted that in terms of internal medicine, students do 50% -60%, which varies by the number of patients that come to the hospital. The ambulatory training includes history taking and physical examinations, in groups of five including their professor,

in that ambulatory setting. The students also are asking questions, filling in questionnaires that are sent to a platform where they are used as an educational tool. The in-patient experience is when they see those same patients in the hospital should they return. The students are evaluated on their experience with the patients, their ability to talk with and examine a patient, to do their clinical history, in the right sense and right order, and also on their clinical way of thinking. He noted that they see the growth of knowledge in the students over those 12 weeks of training. These evaluations are always done by their professors.

Dr. Hawkins asked if the in-patient curriculum covers a minimum range of diagnostics, for example, the heart, the lungs, the kidneys, etc.

Dr. Cuellar stated that each third level hospital has the different areas, and the students rotate through each of those areas during their 12 weeks of training. He stated that each student has to take five clinical histories for each clinical case per week in each of the areas in the hospital.

Dr. Yip asked why they feel the need for a four-year program.

Dr. Cuellar stated the four-year program allows students to practice into the third year, which gives them the ambulatory experience in the third year, so the four-year program gives the student more tools to work directly with patients and develop the clinical thinking sooner. He noted a four-year program would introduce the students to the clinical thinking and the development of those clinical skills.

Dr. Yip stated with the four-year program, the school will probably have a higher number of enrollments and asked how many faculty the program has currently.

Dr. Cuellar stated they have 4-5 faculty per subject. So, when the students go to the hospitals in their third year, there are five students per professor.

Dr. Yip requested a roster of faculty, as his concern is the number of faculty per student if enrollment increases as expected.

Dr. Hawkins asked Dr. Nuovo if UAG understands what is needed to cure the deficiencies,

Dr. Nuovo stated that what would resolve any pending concerns would be a demonstration from the school that they keep a log of each student during their third year of clerkship and the fourth year of their ambulatory patient experience and that the students get reviewed on an annual basis to determine if the students are performing as expected.

Dr. Krauss asked Dr. Nuovo if he felt there was a need for a site visit before approval.

Dr. Nuovo stated if the school would provide a student log for review, he feels that would prevent the need for a site visit. He also would expect the UAG committee that reviews these logs, provide information that assures the adequacy of the training that is shown in the logs.

Susana Leano stated that UAG already has the process in place for student logs and that they are reviewed weekly.

Dr. Bholat asked for some clarification on who is attending the four-year school and who is attending the five-year school.

Susan Leano explained that the American citizens are currently attending the five-year program, and the four-year program is eliminating the internship which is not necessary for the U.S. students to practice in the United States. Those students who will be practicing in the U.S. will come back to the U.S. and take the USMLE exam as opposed to the Mexican Medical Exam.

Mr. Serrano Sewell felt there was no need for a site visit and recommended the Board approve the four-year curriculum to recognize UAG's international program with the four-year program with the expressed condition that they meet all condition of BPC Section 2089.5, including the log that was requested by staff. Board staff could review this and then provide the Board with the final report for approval.

Dr. Bishop stated his concerns about shorter training programs and would like more information to be provided and the May Board meeting before making a final decision.

Dr. Lewis made a motion to continue this item to the Board's May meeting, to direct staff to work with Dr. Nuovo to request additional information about the curriculum logs, to have staff review those logs for accuracy and to include Dr. Bishop, in his capacity as Licensing Committee Chair, in discussions and preparation of a report. In addition, Board staff will provide a full report back to the Member in May for action; s/Dr. Krauss. Motion carried unanimously.

Agenda Item 6 Executive Management Reports

Ms. Kirchmeyer stated she would not be going over the reports in detail unless Members have any questions, but would like to bring a few items to their attention. She began by thanking the Board's Business Services Office and the Administrative Staff. She stated these staff members are unsung heroes that are always there when something is needed, especially at the Board Meetings.

Ms. Kirchmeyer then directed the Members to page BRD 6A-4 in their packets, which shows the Board's fund condition. As mentioned at previous meetings, the general fund loans were scheduled to be repaid in fiscal years (FY) 15/16, 16/17 and 17/18, however, the Board was notified by the DCA that the repayment plan has been changed to a partial repayment of \$6 million in FY 16/17 and \$2 million in FY 17/18. The total repayment indicated now is \$8 million, which will still leave a remaining \$7 million. She noted that if the Board's fund falls below the required reserve levels, that is 204 months, those loans will need to be repaid prior to discussion of any fee increase.

Ms. Kirchmeyer stated currently the Board's fund reserve is projected to be 3.7 months at the end of the FY, and then below the mandate in 17/18.

Another budget item that Ms. Kirchmeyer brought to the Board's attention is the Budget Change Proposals (BCP). The Board had submitted a BCP to hire additional staff in the Central Complaint Unit (CCU) and to increase the Expert Reviewer funding. Those two BCPs were approved and placed in the Governor's Budget that was released in early January.

Ms. Kirchmeyer also noted that since the Budget documents were completed, staff was informed that due to Senate Bill (SB) 467, the DCA had requested an allocation of an additional \$577,000 to the

Board for the Attorney General's (AG) Office. She reminded the Board that SB 467 passed last year and requires reporting to the Legislature by the AG's office for each Board under the DCA. The AG's office requested this funding for the additional staffing needed to obtain the statistics to make the reports. Ms. Kirchmeyer noted that this BCP, as well as the two for Board staffing and increasing the Board's expert reviewer allocation will be going through the Budget Hearing process. She noted that if approved, they will be effective on July 1, 2016, as part of the Budget Bill.

Ms. Kirchmeyer then directed Members to pages BRD 6A-24 – 6A-32, which is the Board's 2014/2015 Annual Report. She encouraged the Members to review the report.

Ms. Kirchmeyer stated that as discussed in previous Board meetings, there has been an increase in the time it takes to review a complaint in the Board's CCU. The CCU is now fully staffed and managers have met with Ms. Delp to develop a plan to address the increase in the time frame, which was discussed at the Enforcement Committee meeting. In addition, staff is proposing a reclassification of another position to obtain an additional analyst to open complaints in the CCU. Ms. Kirchmeyer and staff are hopeful that by summer, complaint time frames will have significantly decreased. In addition, with the newly added non-sworn investigative staff unit, reporting has been separated out between the non-sworn investigative staff unit and the Health Quality Investigative Unit (HQIU).

Ms. Kirchmeyer then provided an update on the Vertical Enforcement Report. She stated this report is required to be submitted to the Legislature in March. Staff is still waiting for some data to complete the report, and should be done by the end of month. The report will then be provided to Dr. Yip, Chair of the Enforcement Committee, for review. She noted that an Interim Full Board Meeting will need to be scheduled for the end of February for the Board to review and approve the report. Ms. Kirchmeyer stated that this report will provide statistical information and an update since the last report in 2013.

Ms. Kirchmeyer then updated the Board on the CURES program. She noted that on January 8, 2016, the Department of Justice (DOJ) released the streamlined application for prescribers and dispensers. The registration process for those who apply on-line will no longer require a notary and the full process is now all electronic. She noted that the one caveat is that all registrants will have to use an updated or compliant browser to initially register. However, once they are registered, an older browser can be used, and, once logged into CURES, the user will be directed to version 1.0 or 2.0. She stated that version 2.0 offers more, and is encouraging everyone to get an updated browser if needed. All current users will be prompted to update their security information. Additional information will be sent out via email as well as an article in the Spring Newsletter to help remind everyone that they have to be registered in the CURES program by July 1, 2016.

Ms. Kirchmeyer then gave an update on the prescribing of psychotropic medication to foster children. She stated that in late November, the Board contracted with a pediatric psychiatrist, whom just recently finished reviewing the data that was received by the Department of Health Care Services (DHCS) and the Department of Social Services (DSS) to determine whether the data is going to be able to identify physicians who may be inappropriately prescribing. Her report shows that she is not able to make that determination based on the information that has been provided, so staff will have to go back to DHCS and DSS to see if they can provide the information the psychiatrist is requesting.

Ms. Kirchmeyer announced that the Federation of State Medical Board's annual meeting will take place in San Diego, California from April 28-April 30. The topics of this meeting can be found on page BRD 6A-3 for review. She asked any Members who are interested in attending to let her know.

Ms. Kirchmeyer also announce that on February 4, 2016, the Little Hoover Commission is holding a public hearing on occupational licensing in California. She stated at this introductory hearing, the Commission will examine the economic linkages between occupational licensing and consumer prices, wages and employment services, and quality and availability. Commissioners will also learn about the effect of occupational licensing on upward mobility and innovation.

Finally, the Commissioners will also learn about the effects of occupational licensing on upward mobility and innovation. Finally, the Commission will consider the nexus between public interest and occupational licensing and the Legislative Sunrise and Sunset processes that govern occupational licensing in California.

Ms. Kirchmeyer stated that staff will begin the next Sunset Review process in a couple of months. The committee's questionnaire is expected to be received in March, with a due date of November 1, 2016. Once the report is completed, the Senate and Assembly Business and Professions Committees will review the report and provide follow-up questions. Responses to those follow-up questions will be provided and then in early 2017, a hearing will be scheduled.

At that time, the Legislature will hopefully draft language to extend the Board's next Sunset date for another four years, until 2022. She stated that once the questionnaire is received, she will notify the Members as this will be an ongoing process at each meeting until the final report is brought to the Board at the October meeting for Members to review and finalize.

Ms. Kirchmeyer noted that since the last Board meeting, she and Mr. Serrano Sewell had met with the executive staff at the DCA in regard to BreZE issues, such as the Board's current change requests and concerns. The DCA had reviewed the change requests and identified 45-50 that they thought would be priority for the Board. After discussion, it was decided that the Board needs to meet with the DCA to review all of the change requests and actually identify resources necessary to complete those requests. The hope is that once these changes have been discussed, that changes will be able to be completed by end of the current year. These changes are ones that would directly impact staff and cause delays in processing the work. She noted that in addition, the executive team stated that they are looking to revamp the DCA's online license lookup. She stated that once release two is finalized, the DCA will begin looking at this project. The intention is for the DCA to work with the Board's IT staff to develop requirements for the system and then work on its development to make the system more user friendly.

Ms. Kirchmeyer stated she recently attended a demonstration of a new reporting tool that is scheduled for release by DCA in the summer for producing BreZE reports. The tool should allow the Board to run most of its own reports. The more complex reports will continue to be run by the Board's IT unit, but once the reports are run, they will be saved in a location where the managers can have access to them for future needs.

Long Do, California Medical Association, stated that CMA had recently been getting several calls on being locked out of CURES when trying to register for the first time since the upgrade. He stated that CMA has been working with DOJ to resolve the issue.

Agenda Item 7 Update from the Department of Consumer Affairs

Mr. Burke, Board and Bureau Relations Manager at the DCA, began by welcoming the Board's two newest Members, Judge Feinstein and Ms. Lawson. He then noted that DCA launched the second release of the BreEZe system on Tuesday, January 19, 2016, which added seven Boards and one Bureau to the system, bringing the total to 18 programs on the BreEZe system. The first day of release, the program processed over \$131,000 in on-line transactions. Once the programs on the second release are stabilized, DCA will begin the process of conducting a cost analysis before moving any other programs over to the BreEZe system.

Mr. Burke reminded the Members that as appointees, they are required to complete a Form 700, Conflict of Interest Form, upon appointment, annually, and again when leaving the Board. He noted that the DCA is now using a paperless Form 700 filing system called NetFile for its nearly 1600 designated filers. NetFile is web based and used by several city and county governments. He stated NetFile will be sending an email to all filers by the end of the month with instructions on how to log in to the new system. The Board's designated Conflict of Interest coordinator will be the point of contact for assistance.

Mr. Burke then announced some new hiring process changes that are being implemented by CalHR. The Office of Human Resources at DCA is working on changes to the recruitment and hiring process. The new system was scheduled to go live on Friday, January 22, 2016. He noted that a memorandum with further information will be distributed to all DCA Administrators and Executive Officers.

Mr. Burke stated that in December 2015, DCA's boards, bureaus and commissions received a letter from the Little Hoover Commission (Commission) in regard to their upcoming study of occupational licensing in California. He noted the Commission is an independent State Agency comprised of members of the Legislature, and public appointees of the Governor and Legislature. The Commission studies various topics related to Government operations and provides reports and recommendations on improvements. The Commission staff met with DCA in early December to discuss the study. DCA is working with the Commission to answer any questions they have regarding occupational licensing. He noted that the Commission plans on holding two public hearings, the first on February 4, 2016, in Sacramento, to review the principals behind occupational licensing. The second hearing is scheduled for March with the intended focus on the people that are impacted by occupational licensing requirements. Mr. Burke stated that in January, DCA sent an email to all programs notifying them of the letter and the study.

Mr. Burke noted the DCA has also made changes to its Enforcement Academy. The DCA held six focus groups of board enforcement staff to look at current courses offered through the DCA enforcement academy and how to best revise and organize to meet the needs of all boards. He noted DCA is looking at a rollout of a whole new curriculum in July 2016. DCA requires trainers from the Board staff to act as subject matter experts, and is requesting each board provide one or two individuals so that only a few boards are not bearing the burden of assisting with this training.

Mr. Burke then reminded members of the annual training required. He noted there have been four Board Member Orientation Trainings (BMOT) scheduled in 2016, and new Board Members are required to attend the BMOT within one year of appointment and re-appointment to the Board. He also asked the members to be sure they are up to date with their Sexual Harassment Prevention Training, Defensive Driver, and Ethics trainings.

Agenda Item 8 Discussion and Possible Action on Legislation/Regulations

Ms. Simoes stated the new 2016 law books are now available and offered them to any Members who are interested.

Ms. Simoes noted that the bills in the Members' packets are all two-year bills, which means they have not moved or been amended, so she will not be going over any of them unless any Members have questions. She noted there is a 2016 Legislative Calendar in the packets, which shows the deadlines in the legislative process. The 2016 legislative session has begun, however, the bill introduction deadline is not until February 19, 2016.

Ms. Simoes then referred the Members to the 2016 Tracker List in the packets. She noted there is only one new bill on the list that needs to be discussed.

Ms. Simoes gave a brief update on two proposals that were approved at the last Board meeting. The first being the clean-up proposal. The proposal included some clean-up for allied health licensees, some clean-up related to the Board of Podiatric Medicine to make the law actually reflect what happens in real practice, and some clean-up for laws pertaining to physicians. She stated those items were all approved. She noted that she has found an author for this clean-up bill, Assembly Member Holden, who sits on the Assembly Business and Professions Committee and the bill should be introduced within the next week.

Ms. Simoes noted the second proposal that was approved at the last Board meeting was related to a new resigned license discipline option. She stated that recently Board staff met with the California Medical Association (CMA) to discuss this proposal. This proposal would allow a physician who is facing discipline, that is more than a public letter of reprimand, but less than a revocation, to stipulate to resign his/her license. This option would be primarily for physicians who no longer wish to practice, who are at the end of their careers, and have never had disciplinary actions before, but cannot meet the terms and conditions of probation, for whatever reason. This resigned license would be considered discipline and the physician could not come back to the Board and petition for reinstatement. This is a necessary provision to be included to ensure consumer protection. When staff met with CMA, they expressed concerns of the permanent nature of the resigned license and they were uncertain if a resigned license would be a palatable option for physicians since it is still discipline and is permanent. Ms. Simoes stated that since there is not much room to negotiate this language, staff is recommending the proposal be withdrawn at this time.

Ms. Yaroslavsky made a motion to withdraw the resigned license legislative proposal at this time; s/Dr. Krauss. Motion carried unanimously.

Ms. Simoes moved on to SB 563 (Pan), stating this bill has to do with utilization review (UR). This bill would prohibit an employer or any entity conducting UR on behalf of an employer, from providing any financial incentive or consideration to a physician based on the number of modifications, delays, or denials made by a physician. This bill would give the administrative director the authority to review any compensation agreement, payment schedule, or contract between the employer or entity conducting UR on behalf of the employer and the UR physician. Ms. Simoes noted that CMA is the sponsor of the bill and CMA states this bill would increase transparency and accountability within the workers' compensation UR process. She noted there is currently no explicit

prohibition in law related to UR to ensure that a physician's judgment for medical necessity is not compromised by financial incentives.

The bill would promote the Board's mission of consumer protection and staff recommends the Board take a support position.

Dr. Lewis made a motion to take a support position on SB 563 (Pan); s/Ms. Yaroslavsky. Motion carried unanimously.

Ms. Simoes gave the Board a brief update on the next Legislative Day. She noted she would be working with Mr. Serrano Sewell on a time frame for the next Legislative Day, and, once a month has been decided, she will be reaching out to all Members to see who would be interested in participating.

Agenda Item 9 Update, Discussion and Possible Action on Recommendations from the Public Outreach, Education and Wellness Committee

Dr. Lewis noted the Committee met and the first agenda item discussed was the newly named "Check Up On Your Doctor's License" campaign. After the Committee meeting in October, he stated that he and Board staff met to revise the outreach plan and campaign to address the concerns raised by the Committee, and Board Members, and the public. He referred the Members to their packets for a copy of the outreach plan. Dr. Lewis stated he presented a new campaign outreach plan to the Committee and that the activities have been planned and prioritized. He noted that the Committee agreed with the new campaign and plan and a newly designed brochure was presented and approved. Dr. Lewis stated staff also presented a website demonstration of possible enhancements to be made to the Board's website to make the site more user friendly. He noted the changes highlight the new campaign to allow consumers to easily check a physician's license, file a complaint, and/or look up any public document that might be related to that physician. Dr. Lewis noted there was a consensus from the Committee and the public that enhancements to the Board's website would be an improvement. He stated that he and Board staff will review the comments made by both the Committee Members as well as the public, and will bring back an updated outreach plan along with a timeline of outreach events. Dr. Lewis noted that March 6 - March 12 is designated as "National Consumer Protection" week. With that, staff is going to try and get as many outreach events scheduled for that week as possible. If the Board agrees with the direction of the outreach plan, campaign, and web design changes, staff will be directed to move forward with the caveat that the Committee will continue to fine tune the plan and outreach materials and continue the plan to enhance the website design in the future, as needed.

Dr. Levine commended Dr. Lewis and staff for the impressive array of opportunities being looked into for consumer outreach.

Lisa McGiffert, Consumers Union Safe Patient Project, stated they support the on-going work being done by the Committee. She believes the current work may eliminate the initial hurdle of patients looking for more information about their physicians. One concern they are currently having is with no budget for outreach, she wanted to remind the Board that one inexpensive way to reach many people is with social media. They encouraged staff to include more of that venue into the outreach plan.

Agenda Item 10 Update, Discussion and Possible Action on Recommendations from the Patient Notification Task Force

Mr. Serrano Sewell gave an update on the Patient Notification Task Force meeting. He stated the first duty of the task force was to create a mission statement. There was a good discussion among task force members as well as the public, after which he requested that Dr. Levine work with staff to create a revised statement for consideration by the Board. Mr. Serrano Sewell asked the Members to take a look at the revised statement. He noted that it includes a preamble, which gives the context in which the task force is operating, along with its mission statement and its objectives. Mr. Serrano Sewell noted that the most important objective is to have the task force meet and then provide the full Board with a final report and recommended course of action. The next item from the meeting was a presentation from staff on the pertinent issues, such as outreach when the physician is placed on probation, or when disciplinary action is taken, as well as information available on the Board's website regarding a physician with discipline. He stated the task force also discussed the signage that is required to be posted by physicians, which included a presentation by the Board's attorneys with the legislative history of the required signage in a physician's office. Ms. Webb stated the signage cannot be changed to include the language that the task force is requesting without a legislative change. Mr. Serrano Sewell thanked the public who added their input on possible enhancements to the website.

Mr. Serrano Sewell then asked for a motion to approve the revised language of the mission statement. Dr. Lewis suggested that even though many of the comments came from Consumers Union, he thought it best to remove Consumers Union from the mission statement and leave it as "the public and Board Members."

Dr. Lewis made a motion to approve the revised mission statement, including removing Consumers Union from the statement; s/Dr. Bholat.

Mr. Serrano Sewell asked for public comment.

Ms. McGiffert, Consumers Union noted that the mission statement and task force was created because of the petition that Consumers Union brought forward and stated they are disappointed in the task force and what was discussed at the meeting. She noted that instead of the Patient Notification Task Force discussing the concept of physicians being honest with their patients by informing them about being on probation, the task force continued down the current path that puts the burden on patients to find out something that most of them do not even know exists. Ms. McGiffert noted that though they support clearer information on the website, when a practicing physician is on probation due to their own behavior, that is not a substitute for notification to their patients. She stated, physicians withholding this information from their patients, and the Board encouraging that by the recent actions, send a clear message that this is the patient's responsibility, not the physician's and that is the worst kind of violation of physician/patient trust.

Ms. McGiffert noted that she had given the Members a revised proposal in response to the Board's concerns in the October meeting.

The new proposal requested that this requirement apply to physicians on probation for serious reasons, such as sexual misconduct, gross negligence, and serious substance abuse problems. It also requests that the manner of informing patients follow a similar procedure in the current disciplinary

guidelines to address concerns raised in October that the petition was too prescriptive regarding how the notice is given. She stated they would appreciate the Board's consideration of the new proposal and looks forward to working with the Board further.

Mr. Serrano Sewell stated the task force is committed to upholding the mission to protect consumers.

He then stated he thought it important to note that on two separate occasions, the Board has declined to pursue a petition around notification and feels it was done for good public policy reasons. He noted there has been healthy dialogue on this issue on at least two occasions and the Board decided not to pursue what was requested. He believes it is an issue where reasonable minds can differ, which means that the Board is not opposed to consumer protection it just means that the mandate is being fulfilled in a different way. He noted that the Board is sensitive to not only the Consumers Union's concerns, but any public entity or stakeholder and the Patient Notification Task Force was created with that sensitivity in mind. Whether it fulfills the mission of any particular interest group or not, the task force will deliberate in a public manner.

Motion carried. (Levine absent from vote)

Agenda Item 11 Update, Discussion and Possible Action of Recommendations from the Enforcement Committee

Dr. Yip gave an update on the Enforcement Committee meeting by noting that Ms. Delp stated the Medical Board's Expert Reviewer Training will be held on Saturday, March 19, 2016, at the UC San Diego School of Medicine. She stated the training agenda will include an overview of the Expert Program's mission and expectations, legal considerations, case scenario discussions, and segments on testifying from the perspectives of an Administrative law Judge, a Deputy Attorney General and a Defense Counsel. Ms. Delp noted a formal invitation to attend the training will be sent out to experts in the San Diego area and surrounding areas in the next couple of weeks.

Dr. Yip stated Ms. Delp also reported training with the Office of Administrative Hearings (OAH) will begin on January 29, 2016. The Judges from OAH will receive training on anatomy and systems of the body. Finding speakers to provide additional training has been difficult, so Ms. Delp may reach out to Board Members to assist with identifying a speaker that is willing to provide some training.

Dr. Yip stated that Ms. Delp informed the Committee that on January 5, 2016, Board management and staff from the Northern Probation Office met with him to discuss how the Probation Unit operates. He stated that during his visit, he learned the daily functions that staff performs to monitor licensees placed on probation. Dr. Yip noted the meeting was productive, as new policies and procedures were formulated and will be implemented to streamline and improve the probation monitoring process.

Dr. Yip noted that Ms. Delp also stated that on December 8, 2015, Board staff met with staff from the DCA, the Health Quality Investigation Unit (HQIU), and the Attorney General's (AG)'s Office to discuss an issue raised by Senior Assistant Attorney General Ms. Castro concerning the need for two investigators to work a complaint separately when a case is being investigated both criminally and administratively. Ms. Delp stated the meeting adjourned with an agreement that staff from the AG's Office and the HQIU would meet at a later date to resume discussions with hopes of drafting a parallel policy for investigations that will be presented to the DCA for consideration.

Dr. Yip stated that Ms. Delp concluded her update stating that the Enforcement Program managers had been working diligently to evaluate the complaint handling process to find ways to improve the amount of time it takes to process a complaint. Ms. Delp stated to achieve this goal, management will be adjusting staff's caseloads and would also be submitting a proposal to the DCA to reorganize the reporting structure of the Central Complaint Unit (CCU).

Dr. Yip stated that Ms. Robinson then provided the Committee with an update on the Board's Demographic Study. Ms. Robinson stated that on December 20, 2015, the California Research Bureau (Bureau) met with interested parties that included Dr. Jackson, Dr. Savage, and Dr. Lang, to discuss their concerns and the impetus behind the study. The Bureau advised that once they finalize their research design and methodology, the information would then be provided to Board Member Dr. Krauss, for review and approval. The Bureau also reported it would take them approximately two months to finish their analysis of the data and an additional two months to finalize their findings and provide a report to the Board.

Dr. Yip then noted that Ms. Robinson and Ms. Scuri provided an update on the Vertical Enforcement (VE) Report. The mandated report is due to the legislature by March 1, 2016. He stated the VE Report will consist of three primary areas. It will provide statistical data, improvements made to the VE model since that last VE Report was provided in 2013, and recommendations for changes to the law concerning the VE process. Ms. Robinson stated the final report will be presented to the Board at a special meeting at the end of February to meet the March deadline.

Dr. Yip then noted that Mr. Chriss and Ms. Nicholls from the HQIU provided VE program updates along with Ms. Castro.

Dr. Yip noted that Mr. Chriss stated as the newly appointed Chief of the Division of investigation, his priorities for the HQIU are to fill vacant investigator positions as soon as possible, to complete the staff retention project, to develop a strategic plan that will focus on updating the investigative training manual and the development of a statewide training plan for the investigators. Ms. Nicholls then provided information about how the HQIU is prioritizing its investigation cases. Ms. Nichols stated cases would be processed in accordance with the priorities already set forth in law, pursuant to Business and Professions (B&P) Code Section 2220.05. Ms. Nicholls stated cases are categorized as high or low in priority and that the investigators are working high priority cases four days a week, and low priority cases one day a week, with cases being rotated weekly to ensure all complaints are being handled. Ms. Nicholls then stated this operational plan will help to decrease case processing timeframes on high priority cases.

Dr. Yip noted that Ms. Castro stressed there are two issues that are affecting the VE model in being able to process cases in a timely manner. Ms. Castro stated the issue of vacant investigator positions continued to be a problem, but now at higher degree. Ms. Castro stated, as a result, cases get reassigned and this affects the AG's Office from being able to complete cases timely. Ms. Castro stated the second issue is cases are behind handled criminally by the HQIU and when that occurs, the cases are removed from the auspices of the AG's office and are not being prosecuted pursuant to the VE model. Ms. Castro stated that criminal cases can take years to investigate as they are complex and when a District Attorney (DA) Office decides to reject a case for criminal prosecution, the AG's Office has a short timeframe to pursue administrative action against the licensee. To resolve the two issues, Ms. Castro proposed the use of investigators from the AG's Office to assist with investigating

the Board's cases. Ms. Castro stated until the two issues are resolved, the Board is putting the public at risk because cases are not being processed in a timely fashion.

Dr. Yip stated that Ms. Delp gave a presentation on the Probation Unit's Roles and Functions. At length, Ms. Delp explained the different probation terms and conditions that could be imposed and also explained how staff in the Probation Unit monitor the probationer's compliance with each condition.

Lastly, Dr. Yip noted that Committee Member Ms. Yaroslavsky requested information about the recruitment methodology used to reach out and recruit Board experts be added as a future agenda item to be discussed at the next Enforcement Committee Meeting.

Dr. Levine requested that a hit rate analysis be included in the report on the recruitment of expert witnesses. She would like to know what reasons physicians decline to be an expert witness. Dr. Levine corrected a statement that was made earlier in meeting, when it was said that expert witnesses work pro bono. She stated it is not pro bono work, and these physicians do get paid for their time.

Dr. Yip stated he spoke with Ms. Castro requesting feedback from her office in regard to the shortage of expert training and recommended that perhaps Board Members or the Board President send a personal letter inviting physicians to the training.

Ms. Yaroslavsky recommended looking into trying to get better compensation for these physician expert reviewers.

Agenda Item 12 Update from the Attorney General's Office

Mr. Jones from the AG's Office provided an update on the hiring at the AG's Office. He stated a new attorney was hired in the San Diego office and they are in the process of hiring two new attorneys in the Los Angeles office. Interviews are scheduled for the replacement of the San Diego Supervising Deputy Attorney General (SDAG). Mr. Jones stated they are anticipating the retirement of Jose Guerrero, the SDAG in the San Francisco office in a few months and are preparing to quickly backfill that position.

Agenda Item 13 Special Faculty Permit Review Committee Recommendations: Approval of Applicants

Dr. Bholat stated that the Special Faculty Permit Review Committee (SFPRC) held a special teleconference meeting on December 3, 2015, to review two applications. One applicant is from Loma Linda University School of Medicine (LLSM) and the other from Stanford University School of Medicine (SUSM). Dr. Bholat stated that in addition, the SUSM requested a waiver of BPC section 2168.1(a) (5) for their applicant.

Dr. Bholat began with LLSM's applicant, Dr. Fabrizio Luca. Dr. Luca's area of specialty is surgery, specifically in the area of robotic rectal cancer surgery. She stated Dr. Luca's medical school and post graduate training can be reviewed on page BRD 13-2 and BRD 13-3 of the Board packet. Dr. Bholat stated Dr. Luca has a long and distinguished career in gastrointestinal and abdominopelvic surgery at the European Institute of Oncology in Milan, Italy, including, but not limited to, the

following list of responsibilities and directorships: He was the Director of Multidisciplinary Surgical Techniques, Gastrointestinal Surgery at European Institute of Oncology; Director of Integrated Abdominal Surgery, Division of Abdominopelvic Surgery at European Institute of Oncology; Director, Abdominopelvic Surgery, School of Robotic Surgery, European Institute of Oncology; and Senior Deputy Director, Abdominopelvic Surgery, European Institute of Oncology. Dr. Luca developed an original technique for the fully robotic treatment of colorectal malignancies, published in 2009 in Annals of Surgical Oncology. Dr. Luca is the Principal Investigator on the robotic vs laparoscopic resection of rectal cancer. He has performed over 300 robotic surgical procedures, has trained over 50 surgeons in robotic surgical resection of rectal cancer, has published extensively in the field of surgery for rectal cancer, and authored several seminal papers in this field.

Dr. Bholat noted that Dr. Luca will hold a full-time faculty appointment as a Professor of Surgery at LLSM if approved for a Special Faculty Permit (SFP) appointment by the Board. Dr. Luca will provide instruction as part of LLSM's education program, which involves seeing patients along with fulfilling his clinical teaching responsibilities ranging from lectures/teaching sessions, in addition to clinical research. Dr. Luca possesses the unique combination of necessary skills for colorectal surgery. LLSM has a great need for Dr. Luca's expertise in the fight against colorectal cancer.

Dr. Bholat stated the Committee recommends the Board approve Dr. Luca for an SFP Appointment.

Dr. Bholat made a motion to approve Dr. Fabrizio Luca for a BPC section 2168.1(a)(1)(b), special faculty permit appointment at LLSM; s/Ms. Yaroslavsky. Motion carried with one abstention. (Hawkins).

Dr. Bholat stated the second applicant was Dr. Tarik Massoud. Dr. Massoud's area of expertise is in neuroradiology and molecular imaging. Dr. Bholat stated Dr. Massoud's education can be reviewed on page BRD 13-4 of the Board packet.

Dr. Bholat stated that Dr. Massoud is currently in a BPC section 2113 Faculty Appointment at SUSM. He recently held a position of academic neuroradiology at the University of Cambridge. Dr. Massoud has been published in top ranking scientific journals, and has won seven awards for his presentation on his innovative research at international scientific conferences from the American Society of Neuroradiology. He was also the co-author of several books and chapters and has been a peer reviewer for international medical journals.

Dr. Bholat noted that Dr. Massoud would hold a full-time faculty appointment as a Professor of Radiology at SUSM if approved for an SFP appointment by the Board. Dr. Massoud would provide in-patient and out-patient clinical care, and teach and mentor medical and graduate students and fellows. Dr. Massoud would also be doing research in the Molecular Imaging Program at Stanford. Dr. Massoud is outstanding in his fields of Neuroradiology and Molecular Imaging, and a great need exists to maintain his position and avail his services, expertise, and experience in Stanford Radiology.

Dr. Bholat stated the Committee recommends the Board waive the requirement of the BPC section 2168.1(a)(5), that prohibits an SFP appointment if the applicant is in a section 2113 appointment and to approve Dr. Massoud for a special faculty permit appointment.

Dr. Bholat made a motion for the Board to approve the waiver of the requirement of the BPC section 2168.1(a)(5), that prohibits a special faculty permit appointment if the applicant is in a section 2113 appointment, and to approve Dr. Massoud for the BPC section 2168.1(a)(b) special faculty permit appointment at SUSM; s/Ms. Yaroslavsky. Motion carried unanimously.

Agenda Item 15 Update, Discussion and Possible Action of Recommendations from the Midwifery Advisory Council Meeting

Ms. Sparrevohn stated a Midwifery Advisory Council (MAC) meeting was held on December 3, 2015. At the meeting, the MAC heard recommendations regarding changes to the License Midwife Annual Report (LMAR) tool, which is used to collect data on licensed midwife attended births in California. The hope is to have it updated by the 2017 reporting year. The changes should make it easier for licensed midwives to report their statistics and make those statistics more valuable in informing the Board and community as to the quality and safety of licensed midwife attended births.

Ms. Sparrevohn noted the MAC was advised of the continuing work on regulations dictated by the passage of AB 1308 in 2013. This process continues to be stalled due to the inability for the interested parties to reach a compromise regarding Licensed Midwives providing care to women who have had a prior cesarean delivery. Ms. Sparrevohn stated the MAC is asking for several reports at their next meeting to help bring additional clarity to this issue, which is so important to California families.

Ms. Sparrevohn then asked the Board for approval of the following agenda items requested for the next MAC meeting:

- Task Force Update:
 - Update on Revisions to Licensed Midwife Annual Report (LMAR) Update on continuing regulatory efforts required by Assembly Bill (AB) 1308
- Update on midwifery related legislation expected to be introduced or followed this year
- Discussion and approval of MAC member positions that are at the end of their terms
- Update on the midwifery program
- Update on progress with midwifery assistant regulations
- Report from California Association of Midwives on data gathered regarding ability of licensed midwives to consult or collaborate as required by AB 1308
- Report on current national and international data related to vaginal birth after one or more prior cesarean sections

Ms. Yaroslavsky made a motion to approve the above requested agenda items for the next MAC Meeting; s/Dr. Bholat. Motion carried unanimously.

Agenda Item 16 Update on the Physician Assistant Board

Dr. Bishop noted the Physician Assistant Board (PAB) had met twice since his last report. He stated that Governor Brown appointed Javier Esquivel-Acosta, PA-C to the PAB in November 2015. Mr. Esquivel-Acosta holds a medical degree from an international medical school and practiced in Mexico for several years. After coming to the U.S., he was awarded a PA degree from Stanford University.

Dr. Bishop stated that in January 2016, Governor Brown reappointed several members to the PAB, including himself as an ex officio member to serve another term. Also at the January 2016 PAB meeting, Robert Sachs was re-elected as Board President and Jed Grant was elected as Vice-President.

Dr. Bishop noted that the Senate Committee on Business, Professions and Economic Development and Assembly Committee on Business and Professions had begun their Sunset Oversight Review of PAB. The PAB is scheduled to be reviewed in early 2016. He noted that at the PAB's November 2015 meeting, Members discussed the draft report, made several changes, and approved the final report. Staff will submit the report the Legislature.

Dr. Bishop stated that at the PAB's November 2015 meeting, Members discussed new legislation going into effect in January. He stated there were some changes to law that pertain to adequate supervision of physician assistants and for record keeping when it comes to recording the supervising physician supervision of the physician assistant. Dr. Bishop noted that the PAB also discussed that regulations should reflect technological changes on how supervision is noted using electronic medical records (EMR). EMRs have replaced paper records in most medical practices. These discrepancies may result in confusion with physician assistants attempting to comply with the laws and regulations.

Dr. Bishop stated that the PAB's January 2016 meeting proposed amendments to California Code of Regulations (CCR), Title 16, Section 1399.546 were presented. After discussion and public comment, the PAB voted to initiate the formal rulemaking process and set the proposed regulation for hearing.

Dr. Bishop noted there are seven new California-based PA training programs on the pathway to accreditation. ARC-PA is the national physician assistant accreditation organization. To better assist the PAB in addressing health-care workforce shortage issues, the PAB directed the Committee to contact ARC-PA and request information about how many seats each of these programs will have, when the accreditation process will be concluded, and when the first matriculating class will occur. He stated the answers to these questions will enable the PAB to have information on what the physician's assistant workforce will look like and assist in addressing workforce shortages.

Dr. Bishop stated the PAB discussed a recently passed State of Georgia law that provides tax deductions for physicians who serve as a community based faculty physician for a medical core clerkship (a preceptor) provided by the community based faculty. He noted the PAB discussed that physician assistant training programs are experiencing difficulty in finding physicians willing to work as preceptors for the clinical portion of the physician assistant training program. The PAB is concerned that the inability to train new physician assistants will negatively impact the health care needs of California consumers. He stated the PAB voted to form an advisory committee to further explore this issue.

Agenda Item 17 Update on the Health Professions Education Foundation

Ms. Yaroslavsky announced that participation by the Board Members on the Health Professions Education Foundation (HPEF) has come to a conclusion. It was sunsetted as of January 1, 2016. Ms. Yaroslavsky stated she has participated in the HPEF for many years with an attempt to reinvent the opportunity to ensure access to people who want to go into the medical profession to work in underserved communities. She stated it has been an honor for her to do so and that she is very disappointed in the change. She stated the Stephen Thompson Loan Repayment Program was

implemented by the Board to encourage physicians to work in underserved communities for a minimum of three years with the intention of trying to change the culture of the physician and the community, and to have the physician come, stay and be an integral part of the community.

Ms. Yaroslavsky thanked the California Endowment for all of its support. She then stated that applications are currently being accepted from December 7, 2015, through February 29, 2016, for new loan repayment applicants.

Ms. Yaroslavsky noted that the HPEF is a state non-profit, established in 1987 and has awarded more than 10,500 scholarships and loan repayments totaling more than \$124 million dollars. Ms. Yaroslavsky stated that the HPEF provides support to cultural and linguistic competent healthcare workers dedicated to delivering direct patient care in California's underserved communities and encouraged anyone who can become involved in some way to do so. She stated again what an honor it has been to be a part of the HPEF.

Dr. Yip stated that while also participating on the HPEF alongside Ms. Yaroslavsky, he has found that Ms. Yaroslavsky is the most dedicated and committed member of the HPEF. He noted that the current chair of the HPEF has recently retired due to health issues, and believes that Ms. Yaroslavsky would make a terrific replacement as Chair. He would like to find a way through the proper channels, to recommend Ms. Yaroslavsky as a nominee for the Chair of the HPEF.

Mr. Serrano Sewell stated that there needs to be some way to get the Board's participation back on the HPEF in some capacity and thanked both Ms. Yaroslavsky and Dr. Yip for their service on the HPEF. He also noted that this should be a topic that is discussed in the Board's sunset review report.

Agenda Item 18 Agenda Items for the May 2016 Meeting in the Los Angeles Area

Dr. Lewis recommended a discussion on updates on medical education since it is progressing and is much more sophisticated now than it used to be. Dr. Nation had originally agreed to give a presentation on this subject at this meeting, but was unable to and asked that it be put on the next meeting agenda.

Ms. Kirchmeyer recommended moving the presentation to the July Board meeting as it would be more convenient for Dr. Nation to attend.

Ms. Wright requested a discussion on the shortage of genetic counselors who advise about the risks of inheriting disorders after someone has been tested. She would like to find out why there is a shortage in this field and what the Board can do to promote more people going into this profession.

Dr. Levine requested staff provide a look back at the Special Faculty Permit Program in terms of what the experience has been in the state, and whether it has been successful or if there have been problems. She would like to see some sense of quality and quantity of value delivered by the program to the State of California.

Mr. Serrano Sewell requested that staff give the Board sufficient enough time to review and comment on the Sunset Review Report, which he recalls being quite a voluminous document.

Dr. Levine suggested that part of the discussion on the Sunset Review Report include a reminder of what the Sunset Review is, the purpose of it, and what the elements of it will and should include. Ms. Kirchmeyer stated that discussion can begin at the next meeting, as by then, staff will have the questions and the Board can get an idea of what will be needed for the report.

Ms. Kirchmeyer recommended inviting the former Oregon Medical Board President to attend a future meeting to offer his input on the End of Life Option Act bill. She stated this physician has been very involved in the End of Life Option Act in Oregon and he could offer some information on how this bill may impact the Board and Members.

Agenda Item 19 Adjournment

Mr. Serrano Sewell then thanked staff for putting together the Board and Committee meetings.

Mr. Serrano Sewell adjourned the meeting at 11:15 a.m.

 Mr. Serrano Sewell, President

 Date

 Denise Pines, Secretary

 Date

 Kimberly Kirchmeyer, Executive Director

 Date

The full meeting can be viewed at <http://www.mbc.ca.gov/AboutUs/Meetings/2015/>



MEDICAL BOARD OF CALIFORNIA

QUARTERLY BOARD MEETING



**Interim Board Meeting
February 26, 2015**

Meeting Minutes

TELECONFERENCE

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

Additional Various Locations:

Arrowhead Regional, Medical Center, 400 North Pepper Avenue, Room #3M308-5, Colton, CA; 12750 Center Court Drive, South, Ste. 750, Cerritos, CA; Attorney General's Office, 455 Golden Gate Avenue, 11th Floor, San Francisco, CA; Asm. Chad Mayes' District Office, 41608 Indian Trail Rd, Suite D-1, Rancho Mirage, CA; One Embarcadero Center, 30th Floor, San Francisco, CA; 600 N Garfield Ave. # 308, Monterey Park, CA; UCLA Family Health Center, 1920 Colorado Avenue, Room # 269, Santa Monica, CA; Saban Community Clinic, 8405 Beverly Blvd. Los Angeles, CA

February 26, 2016

MEETING MINUTES

Members Present:

David Serrano Sewell, President
Michelle Bholat, M.D.
Dev GnanaDev, M.D., Vice President
Randy Hawkins, M.D.
Kristina Lawson, J.D.
Ronald H. Lewis, M.D.
Gerrie Schipske, R.N.P., J.D.
Jamie Wright, J.D.
Barbara Yaroslavsky
Felix Yip, M.D.

Members Absent:

Michael Bishop, M.D.
Judge Katherine Feinstein (ret.)
Howard Krauss, M.D.
Sharon Levine, M.D.
Denise Pines

Staff Present:

Kimberly Kirchmeyer, Executive Director
 Letitia Robinson, Research Program Specialist
 Liz Rojas, Business Services Officer
 David Ruswinkle, Associate Governmental Program Analyst
 Jennifer Saucedo, Business Services Analyst
 Anita Scuri, Consultant
 Lisa Toof, Administrative Assistant II
 Kerrie Webb, Legal Counsel
 Curt Worden, Chief of Licensing

Members of the Audience:

Gloria Castro, Supervising Senior Assistant Attorney General, Attorney General's Office
 David Chriss, Chief, Division of Investigation, Department of Consumer Affairs
 Andrew Hegelein, Supervising Investigator II, Division of Investigation, Department of Consumer Affairs

Agenda Item 1 8:00 a.m. Call to Order/Roll Call

Mr. Serrano Sewell called the meeting of the Medical Board of California (Board) to order on February 26, 2016, at 8:10 am. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Public Comments on Items not on the Agenda

No public comments were offered.

Agenda Item 3 Review and Consideration of Vertical Enforcement Report Pursuant to Government Code Section 12529.7

Dr. Yip, Chair of the Enforcement Committee, thanked all Members for being available to attend the meeting. He stated that this interim meeting is taking place because, unfortunately the data reports that were needed to complete the Vertical Enforcement (VE) report were not available prior to the January Board meeting. Dr. Yip noted that this report is required pursuant to Government Code Section 12529.7 and is due to the Legislature on March 1, 2016. He thanked Ms. Scuri, Ms. Robinson, and Ms. Kirchmeyer for their time and work on the report and also thanked Mr. Chriss, Ms. Nicholls and Ms. Rhine from the Department of Consumer Affairs (DCA) and Ms. Castro and Mr. Jones from the Attorney General's (AG's) Office for their assistance as their input was very helpful.

Dr. Yip pointed out that after discussion with the AG's Office, there were a few data markers that needed to be changed in the original report, so an amended version of the report was provided to all Members and placed on the Board's website. He noted that these edits only made changes to the graphs and added two footnotes.

Dr. Yip stated the law is not specific about what should be in the report. However, he noted this is the sixth report the Board has submitted regarding the VE model. Staff thought that it was

important to provide the same statistical reports that were provided in the previous report, with the addition of subsequent fiscal years.

Dr. Yip noted that staff decided to not include the breakdown by complaint category, but rather to provide an overall report. In addition, staff used the median processing times because staff felt it would provide a more accurate picture of the timeframes. This report provides a brief introduction and history of the VE Program, as well as costs of the Program. It also describes the improvements that have occurred since the last report in 2013. He noted these improvements can be found on page eight of the report. Dr. Yip stated lastly, the report contains four recommendations regarding the VE Program. He went over the four recommendations.

The first recommendation discussed the language of Government Code section 12529.6(b). The language states the investigator of the case is “under the direction but not supervision of the deputy attorney general.” Dr. Yip noted that after reviewing this language, it was determined it may interfere with the investigators and attorneys being a true team and the Board should recommend that a mechanism be found to more fully utilize the expertise brought to the team by both the investigator and the deputy attorney general (DAG).

The second recommendation would request that the same Government Code section be amended to allow Board staff, at its discretion, to consult with the AG’s Office on cases handled by Board’s non-sworn staff.

The third recommendation would remove a reference to the Medical Board from subdivision (e) in the same Government Code section to reflect the transition of the investigators from the Board to the DCA. Dr. Yip noted this section of law states the Board has to enhance the VE Program by increasing computer capabilities, by co-locating the investigators and attorneys, and by performing team building of both parties. However, with the transition of the investigators, the Board no longer oversees the individuals who are involved in the VE Program. Therefore this should be a requirement of those entities.

The last recommendation was for the DCA and AG’s Office to utilize the new joint manual and develop additional strategies and procedures to further improve the VE Program.

Dr. Yip stated he had reviewed and discussed this report with staff and agrees with its content. He noted he believes that, based upon the fact that this Program is now a collaboration with the other entities, it is important for these recommendations and the report to move forward. He then asked Ms. Scuri and Ms. Robinson to add any additional information and answer any questions. He stated he would then like to ask for a motion to approve the report.

Ms. Scuri noted there was a reference made in Government Code Section 12529.7, which requires the Board, in consultation with the Department of Justice (DOJ), and the DCA to report and make recommendations to the Governor and the Legislature on the Vertical Enforcement and Prosecution Model and requires the report be submitted on March 1, 2016. She stated the Board began creating the report in October 2015, when she was asked to assist staff with the preparation of the report due to her work on the VE joint protocol in 2014/2015. The goal was to develop a report that was neutral in tone and easy to read. She stated she personally worked with the Division of Investigation (DOI) and the AG’s Office. Ms. Scuri noted she had extensive discussions with Ms. Castro and

Mr. Jones to address some of their areas of concern and Board staff worked hard to make this as close as possible to a joint report by making several modifications and adjustments to address issues raised in particular by the AG's Office. Ms. Scuri started the consultation process at the beginning rather than wait until the end. She noted those who participated in this process were asked what they wanted to see in the report. Board staff then came up with a time line for receiving the statistical data by October 31, 2015, and circulated a draft report by December 1, 2015. She noted that although the data was requested on October 8, 2015, with several follow up inquiries, staff did not receive the data until the end of January due to technical difficulties with attempting to obtain the same data markers from two different data systems.

Ms. Scuri noted that while waiting for the data, in October, staff shared with the DOI and the AG's Office the proposed concept of the report to receive feedback on the report contents. Ms. Scuri stated several changes were based on that feedback. Ms. Scuri stated the discussion included suggestions from the AG's Office such as what items should be included in the report and explained why certain items should more appropriately be included in the next Sunset Review Report. She noted the basic narrative of the report was drafted, excluding the data and recommendations in November and that narrative was shared with other parties involved. She stated staff received input on the draft report from the AG's Office and DOI in both November 2015 and again in February 2016. A draft of the narrative, without the charts was provided in early January and the data was finally provided to the AG's Office and DOI on February 16, 2016.

Dr. GnanaDev stated he was fine with the recommendations but stated he had some concerns about the timelines in the report as they seemed to have gotten a bit better over the past few years, but as this year shows, the timelines are worsening again.

Dr. Bholat agreed with Dr. GnanaDev's statement with regard to the timelines and asked how often meetings with all parties are held and what metrics would be used to know that staff is on target.

Ms. Kirchmeyer stated that the metrics shown in the report will continue to be used in order to measure this pattern. She added the increase in the days over the past couple of years have been due to the vacancies in the investigative unit as well as the timeframes at the Office of Administrative Hearings (OAH). Ms. Kirchmeyer stated that staff will be reporting back to the Enforcement Committee and recommended using the same data markers shown in the report to show if progress is improving or not along with the performance measures.

Dr. Lewis stated that after looking at the graphs, he asked if the metrics are possibly being looked at periodically to assess progress.

Ms. Kirchmeyer stated that the metrics shown in the report will be used going forward, now that there are reports. She noted there are several items not included since only Vertical Enforcement is being looked at and if these numbers were to be run overall with all of the other case types, she felt that numbers would be a bit different because some of the easier cases have been pulled out, such as out-of-state cases. Ms. Kirchmeyer noted the out-of-state cases are easier to move through the upfront process, in most circumstances, but then they still have the same waiting time at the OAH. Ms. Kirchmeyer stated if those cases were to be put in, there would be a bit of a difference in numbers as far as the Board is concerned as compared to the more complex cases that go into the

Vertical Enforcement and Prosecution Model. Ms. Kirchmeyer stated reports can be run both ways, with everything and also breaking them out, which staff will do in the future for easier comparison.

Dr. Lewis then asked what the difference is between “from investigation initiated to accusation filed” and “from investigation completed to accusation filed.”

Ms. Kirchmeyer stated the time frame for “investigation initiated” is when the accusation first is assigned to both an investigator at the DOI, as well as being assigned to a Deputy Attorney General, all the way until the accusation is filed. The time frame from “investigation completed” is from when they believe the investigation is complete and ready for the accusation to be filed and referred to the AG’s Office for the final closure of investigation until the accusation is filed.

Ms. Yaroslavsky stated that through all of the past meetings, there has been an issue with receiving reports. This report in the packet looks like it is filled with information. She is asking how this information is now being able to be supplied, but could not be in the past.

Ms. Kirchmeyer stated that this information was not easy to get and/or was not available before, which is why the interim meeting had to take place. She stated that staff programmers had to write these reports manually and now that they are completed, they can be used in the future.

Dr. Yip stated he would like the reports supplied to the Enforcement Committee regularly, now that staff is able to do so.

Dr. Bholat asked who oversees the blue bar in the report, which is “investigation initiated to accusation filed” as opposed to the red bar, which is “investigation completed to accusation filed.” She also asked what is being done to make that significant delta closer.

Ms. Kirchmeyer stated the blue bar represents the DOI as well as the AG’s Office since there is the VE team that is working together during that time, all the way to the end. She noted the red bar represents the point where the investigation is complete and the AG takes over for the filing of the accusation.

Ms. Castro stated she and Mr. Jones reviewed the draft report including the recommendations regarding the VE program. She noted the agreed upon tasks in October 2015 between the AG’s Office, DCA and the Board were to communicate any issues in any areas needing improvement to enhance the usefulness of the VE in investigating Board complaints regarding patient care in the State of California. She noted that while the AG’s Office was consulted in the preparation of the Board’s draft report, some of their submitted input did not appear in the current draft and they were not given adequate time to review the produced statistics, so they will respond to the Board’s invitation to make recommendations to the legislature. Ms. Castro stated those recommendations and further comments will be forthcoming and will only be covered briefly at this meeting.

Ms. Castro then gave a presentation that provided background of the VE, context and legal perspectives. She then stated that the VE program should not be eliminated, and it should not be returned to the handoff model, as she believes it hurts consumers.

Ms. Castro stated the AG's Office's recommendation is that the VE program continue, that the six-month protocol be allowed to be practiced and that the HQIU leadership be allowed to work with HQE, which was just put into effect in July 2014.

Ms. Castro stated the Board needs to decide what it values most in this process, whether it be time and money, meaning being focused on how quickly the AG's Office gets thing done, or whether quality is of more importance. She noted once that decision is made, it needs to be made very clear to the them as part of the team.

Mr. Chriss noted the HQIU was given the opportunity to provide input to the report, which they did, and after having reviewed the final draft report, he felt it is accurate and was prepared with data that was input into BreZE by DCA staff. He noted there have been improvements since the last report and they were detailed accurately in the report, one being the new protocol, and the new VE manual. Mr. Chriss stated there has been training provided to staff regarding the manual. He noted there are two joint training sessions on 805 investigations that will be provided in March 2016. He stated that, as Ms. Kirchmeyer had mentioned previously, the increasing computer capabilities in order to share case information is another improvement that has been made and is currently being used. He noted as far as parallel prosecution, HQIU is developing guidelines for this process. Mr. Chriss stated the draft guidelines had been sent to Ms. Kirchmeyer and Ms. Castro for review and input. He noted there will be a final draft soon.

Dr. Lewis made a motion to approve the Vertical Enforcement and Prosecution Report as written; s/Ms. Yaroslavsky. Motion carried unanimously.

Mr. Serrano Sewell adjourned the meeting at 9:05 a.m.

 David Serrano Sewell, President

 Date

 Denise Pines, Secretary

 Date

 Kimberly Kirchmeyer, Executive Director

 Date

The full meeting can be viewed at www.mbc.ca.gov/Board/meetings/Index.html.