



## MEDICAL BOARD OF CALIFORNIA



**Education Committee Meeting**  
 Medical Board of California  
 Embassy Suites – San Francisco Airport  
 Mendocino/Burlingame Room  
 150 Anza Blvd.  
 Burlingame, CA 94010

January 27, 2011

### MINUTES

#### **Agenda Item 1 Call to Order/Roll Call**

The Education Committee of the Medical Board of California was called to order by Chair Barbara Yaroslavsky at 2:43 p.m. A quorum was present, and due notice had been mailed to all interested parties.

#### **Members of the Committee Present:**

Barbara Yaroslavsky, Chair  
 Hedy Chang  
 Jorge Carreon, M.D.  
 Eric Esrailian, M.D., M.P.H.  
 Sharon Levine, M.D.  
 Mary Lynn Moran, M.D.  
 Janet Salomonson, M.D.  
 Gerrie Schipske, R.N.P., J.D.

#### **Board Members, Staff and Guests Present:**

Susan Cady Enforcement Program Manager  
 Zennie Coughlin, Kaiser Permanente  
 Norman C. Davis, Esq.  
 Silvia Diego, M.D., Board Member  
 Shelton Duruisseau, Ph.D., Board Member  
 Julie D'Angelo Fellmeth, Center for Public Interest Law (CPIL)  
 Stan Furmanski, M.D.  
 Dean Grafilo, California Medical Association  
 Beth Grivett, Physician Assistant  
 Catherine Hayes, Manager, Sacramento Probation Unit  
 Kurt Heppler, Staff Counsel  
 Breanne Humphries, Licensing Manager  
 Teri Hunley, Business Services Manager,  
 Diane Ingram, Information Systems Branch Manager  
 Jennifer Kent, Board Member  
 Suzanne Kilmer, M.D.  
 Daniel Leacox, Greenberg Taurig, LLP  
 Craig Leader, Investigator  
 Sheronnia Little, Information Systems Branch Staff

Ross Locke, Business Services Staff  
Reginald Low, M.D., Board Member  
Natalie Lowe, Enforcement Program Staff  
Kathleen McCallum, Northern California Aesthetics Nurses Association  
Armando Melendez, Business Services Staff  
Jennifer Morrissey, Aesthetic Accreditation Agency  
Paul Phinney, M.D.  
Carlos Ramirez, Senior Assistant AG, Office of the Attorney General  
Regina Rao, Business Services Analyst  
Tom Riley, CA Society of Dermatology/Dermatologic Surgery  
Leticia Robinson, Licensing Manager  
Paula Rood, Aesthetic Accreditation Agency  
Chris Sandberg, California Department of Corrections and Rehabilitation  
Victor Sandoval, Supervising Investigator  
Kevin Schunke, Licensing Outreach Manager  
Anita Scuri, Department of Consumer Affairs, Supervising Legal Counsel  
Reham Sheikh  
Jennifer Simoes, Chief of Legislation  
Laura Sweet, Deputy Chief of Enforcement  
Kathryn Taylor, Licensing Manager  
Cheryl Thompson, Executive Assistant  
Rachel Wachholz-LaSota, Inspector  
Linda Whitney, Executive Director  
Curt Worden, Chief of Licensing  
Frank V. Zerunyan, J.D., Board Member

**Agenda Item 2      Public Comment on Items Not on the Agenda**  
No public comment.

**Agenda Item 3      Approval of Minutes from the July 29, 2010 Meeting**  
*M/S/C to approve the minutes.*

**Agenda Item 4      Update on Hepatitis Outreach Efforts – Ms. Yaroslavsky**  
Committee Chair Barbara Yaroslavsky provided an update on the Board's outreach efforts on hepatitis, which was a subject at the last Education Committee meeting. At the last meeting, the Committee heard from an impressive panel of speakers: Dr. So from the Stanford Liver Cancer Program who spoke on the education of physicians regarding hepatitis and the need for increased education for providers, particularly in reference to chronic hepatitis B; Dr. Bolan, Chief of the STD Control Branch of the California Department of Public Health (CDPH), who talked about viral hepatitis, the CDPH's strategic plan for adult viral hepatitis prevention in California, vaccinations, and how the CDPH wants to increase awareness, including focusing on provider awareness; Dr. Cheung, Director of Hepatology at the VA Northern California Healthcare System, who relayed his experience as a clinician, and how he found a lack of basic provider knowledge about viral hepatitis and encouraged this committee to educate the public about hepatitis; and Dr. Sylvestre, Executive Director of the Oasis Clinic, who said the gaps in knowledge regarding hepatitis C should be addressed and asked the Medical Board to take a lead in the educational component.

As a result of the presentations and discussions at the last meeting, where the need for education for providers and the public on hepatitis was expressed, the Medical Board included two articles in its January newsletter, which has been sent to all physicians by email and is posted on the Board's Web site. The first article is regarding chronic viral hepatitis and screening recommendations for primary care clinicians. The second article is an informational sheet for providers. This article covers who is tested for hepatitis B and C, patient self-administered risk for B and C, and information on testing and serology for hepatitis B and C. The Board will determine if more outreach is needed.

**Agenda Item 5 Discussion on Applying the Notice to Consumers Regulation to Correctional Facilities and Potential Recommendation to the Board – Ms. Simoes/Ms. Scuri**

Ms. Simoes reviewed the memorandum stating that effective June 27, 2010, the Notice to Consumers regulation went into effect which requires physicians in California to inform their patients that they are licensed by the Medical Board and to provide the Board's contact information.

On June 25, the Medical Board received a letter from the California Department of Corrections and Rehabilitation (CDCR) that stated its belief that the Notice to Consumers regulation should not apply to physicians working within CDCR institutions or Department of Juvenile Justice (DJJ) facilities. CDCR requested confirmation from the Board on this issue. Some of the reasons are: there are numerous mechanisms already in place to address medical concerns of inmates and youths; inmates and youths do not have access to the Internet and have limited telephone access, so the information on the notice is ineffective; and inmates and youths may see medical providers not licensed by the Board. A spokesperson from CDCR came to the July 29, 2010 Committee meeting and asked during public comment that the Committee consider the letter and his comments and exempt CDCR from the regulations. At that time CDCR was told that the Notice to Consumers does apply to physicians working for CDCR and that this issue would be considered at a future meeting. The Committee could recommend to the Board that the Notice to Consumers regulation be modified to create an exemption for CDCR and DJJ facilities, or the Committee could recommend that the Board not make any changes at this time.

Ms. Scuri stated that the Board's regulation currently applies to all physicians who are engaged in the practice of medicine. Most of the CDCR's objections relate to the actual notice that is posted on the wall of the clinic and that is only one of three ways in which you can comply with the Notice to Consumers. There are several other options. At this point, if the Board wants to exclude CDCR for some reason, the Board would have to change the regulation. Staff is not recommending this action.

Mr. Chris Swanburg, CDCR staff counsel from the Receiver's Office, California Prison Healthcare System, addressed the Committee. He stated that he was present at the July Committee meeting. He said CDCR has several reasons why this regulation should not apply in a prison setting. He felt it important to note that CDCR fully supports the notion of upholding practice standards and patient safety. He pointed out that inmates probably have more patient-safety mechanisms in place than do people not incarcerated. The Office of the Inspector General monitors prison healthcare at every one of the prisons and visits each prison once a year. CDCR has a very vigorous peer review program. Every one of CDCR's practitioners is peer reviewed at least once a year.

Of the prison law office's 700 complaints per month, CDCR screens out about 600 complaints a month as just

being meritless complaints. Of those 100, probably less than a dozen a month contain something of substance. Most of them have to do with medication continuation. Sometimes there are issues with follow-up because CDCR has to go offsite for specialty care and that can be a scheduling problem. If CDCR has individual practitioner issues, those go to the peer review subcommittee. CDCR has an inmate appeals process that inmates can also file an appeal regarding their healthcare. There is a myriad of approaches that an individual has to insure his or her patient safety and CDCR is committed to all of those. CDCR is not convinced that the notice to the inmates regarding the Medical Board really provides anything further in the way of patient safety.

The other problem that CDCR has is that it is difficult to find doctors who want to work in a prison setting. CDCR does not think patient safety is enhanced by including CDCR physicians in this regulation and would ask that the Board exclude CDCR and the DJJ facilities from its application.

Dr. Salomonson stated it may be setting a dangerous precedent to segment out a group of physicians that do not need to post the regulations. However, she is not sure having the signage, in addition to the signage CDCR already has, is going to provide more awareness to that population. She stated that from what Mr. Swanburg has said, there already is an awareness of the Board. Having the sign posted will fulfill the regulation and the Board won't have to rewrite the regulation, and all physicians will basically be treated equally.

Mr. Swanburg interceded that CDCR has complied with the regulation. They have the signs posted currently. But the signs, as pointed out in the letter, include an email address – inmates don't have access to the Internet. And, it includes an 800 phone number and inmates are not allowed to call 800 phone numbers. Practically speaking, all it does is just serve to heighten the awareness that there is a Medical Board out there, but it does not give inmates any viable contact information. If the Board believes inmates need that additional information, they may want to include a street address so inmates can send more of their complaints to the Board, and perhaps fewer to the prison law offices.

Ms. Schipske asked Mr. Swanburg if, based upon his previous comment, all of the prison providers are licensed by the State of California. He responded that all CDCR line providers are either MDs or DOs. There are no unlicensed physicians.

Dr. Furmanski provided public comment. He would be against any changes in the regulations. The suggestion to add the street address is a great idea. Having the street address would make sense and CDCR could probably do that without violating regulations. The regulations do not say CDCR cannot include the street address. To say inmates do not get this notice would violate equal protection.

No action was taken.

#### **Agenda Item 6      Agenda Items for Future Discussion**

Dr. Salomonson said medical errors remain a cause of adverse outcomes. Many times the analysis reveals it is a system failure and trying to assign blame to one individual really does not correct the problem. Dr. Salomonson's hospital and many hospitals are learning that when they looked at their own safety data they realized they had reached a plateau as far as improving safety just with better equipment, and it ended up that certain failures within the system were of human error. The Committee might want to hear a presentation by the aviation industry on how they have used a checklist and team approach to improve systems; but also try to look at system errors and not just individuals.

Ms. Yaroslavsky directed staff to have a discussion with Dr. Salomonson as to some kind of systems' analysis of hospitalists and medical errors within the hospitals.

Dr. Levine said it would be interesting to see the impact of posting the notice to consumers and see if there is a change in the rate of reporting to the Medical Board. She recommended looking at statistics for one and two years after the implementation of the regulation to see what the impact is.

Ms. Yaroslavsky thanked everyone for attending.

**Agenda Item 7      Adjournment**

The meeting was adjourned at 3:15 p.m.

DRAFT