



State of California
 Medical Board of California
 2005 Evergreen Street, Suite 1200
 Sacramento, Ca 95815
www.mbc.ca.gov

Memorandum

Date: January 13, 2010
 To: Board Members
 From: Deborah Pellegrini
 Chief, Licensing Program
 Subject: Licensing Program Update

Since the last Board meeting, the Licensing Program:

- Successfully eliminated the physician and surgeon application backlog by December 23, 2009 --- a week ahead of our objective
- Continued to refine and expand the automated workload reports produced from our applicant database
- Hired and trained 17 new staff
- Implemented the Web Applicant Access System
- Actively worked with consultants to develop a draft copy of the Business Process Reengineering Study

The purpose of this report is to give the Board Members information about each of these areas of achievement, and to highlight the progress we have made in overcoming some long-term systemic problems which have plagued the Licensing Program.

Eliminating the Physician and Surgeon Application Backlog

The most recent Licensing Program backlog started in October 2007 and continued to grow through mid-summer 2009. As of October 1, 2009, the Licensing Program had 576 physician and surgeon applications that had not been reviewed within 60 working (approximately 90 calendar) days of receipt. Initial reviews determine if an application is complete and acceptable for licensure or if it is deficient. They also identify the specific information or documentation that is required to complete the application. Applications that have not yet had an initial review and have been at the Board more than 90 days are referred to as backlog. Application inventory is defined as all applications not reviewed including those in backlog, applications reviewed with deficiencies and awaiting additional documents, and applications where a postgraduate training authorization letter was issued. In mid-October, we implemented an accelerated plan to eliminate the backlog by December 30, 2009. We were successful and completed the review of all applications received prior to October 1 by December 23.

As of January 12, 2010, all applications continue to be reviewed within 90 calendar days of receipt. The oldest application has been at the Board for 75 days (both US/Canadian and international medical school graduates). In addition, the total application inventory of applications not reviewed has been decreased to 1,033 from 1,710 applications at the Board on November 18, 2009.

Automated Workload Reports

When I started as the Licensing Chief in June 2008, there was a lack of organizational knowledge regarding the application (workload) inventory. The Application Tracking System database used to track applications is over 20 years old and processes and procedures tied to using the database have extremely archaic business rules. There was no automated reports developed with the system, and, as such, there were no automated workload reports produced for the Licensing Program. In previous administrations, two reports were generated: quarterly applications received and monthly licenses issued. However, this information was never summarized into one report nor was it validated.

Within one month of starting as Chief, I instituted manual hand counts of the licensing inventory (not reviewed, reviewed and awaiting documents, and issued a postgraduate training authorization letter). By November 2008, we had refined these manual, hand-counted reports to determine which applications were:

- In backlog (received and not reviewed within 90 calendar days)
- Awaiting review within regulatory timelines
- Reviewed but not complete - awaiting additional documents and issued a postgraduate training authorization letter

It took staff approximately 18 hours per month to collect the data and another hour to combine the data into one report. These reports began to identify the seriousness of the application backlog that had started in October 2007.

In August 2009, we obtained the Application Tracking System Ad Hoc Reporting software tool. The Medical Board's Information Systems Branch devoted an analyst to begin working with the licensing staff to develop management reports. We have made some important improvements including weekly reports for:

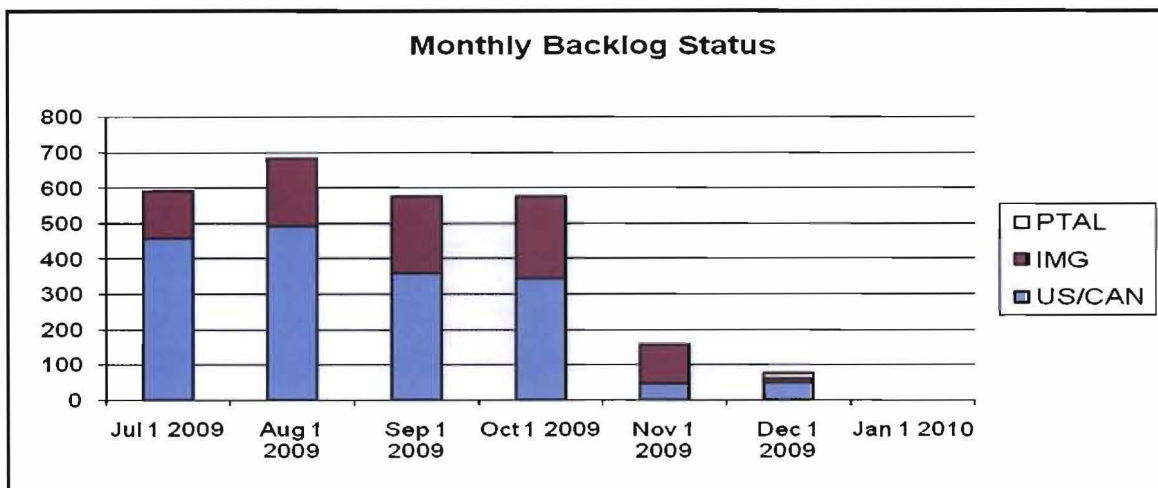
- Applications received by category: US and international medical school graduates for licensure and postgraduate training authorization letters
- Total inventory of applications not reviewed in 90 calendar days
- Number of applications reviewed complete and incomplete with deficiencies
- Licenses issued

This information is now used to create the weekly Board members' reports. An individual report is also generated for each license reviewer with a listing of all applications in his/her caseload received and not reviewed. This has created increased accountability at the individual license reviewer level. These reports have been a tremendous tool and we will continue to refine them to not only track productivity but also predict future workload.

Below are the productivity reports from July 2009 to January 2010 documenting the reduction in the licensing backlog and application inventory not reviewed and weekly production reports from November 18, 2009 to January 12, 2010.

Licensing Backlog Inventory As of: January 2010

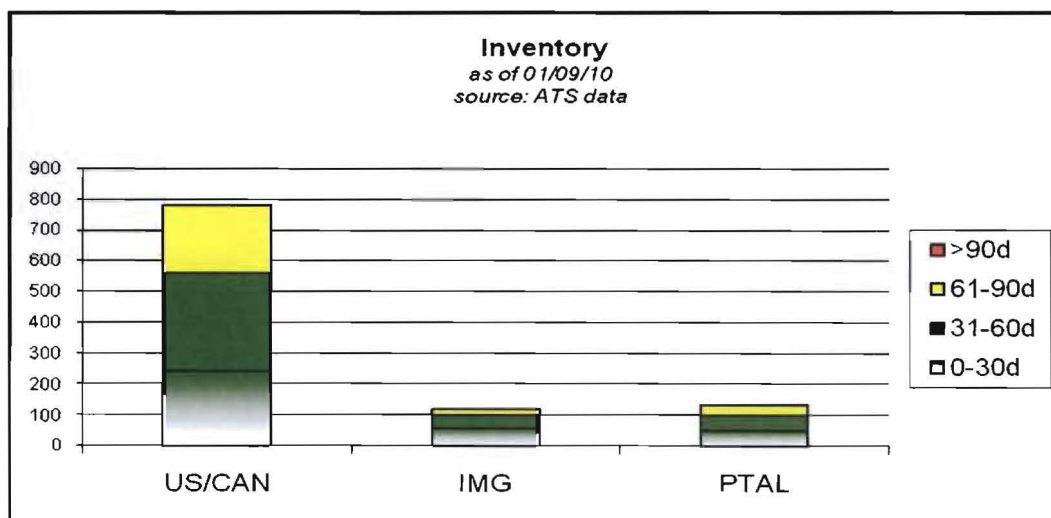
	Jul 1 2009	Aug 1 2009	Sep 1 2009	Oct 1 2009	Nov 1 2009	Dec 1 2009	Jan 1 2010	Feb 1 2010	Mar 1 2010
US/CAN	459	492	361	347	47	52	0		
IMG	133	193	216	229	112	11	0		
PTAL	n/a	n/a	n/a	n/a	n/a	15	0		
TOTAL	592	685	577	576	159	78	0		



Note: Applications without an initial review conducted within 60 working (90 calendar) days of receipt are considered "backlog". An application is defined as received when both the application form L1A-E and the application fee have been received.

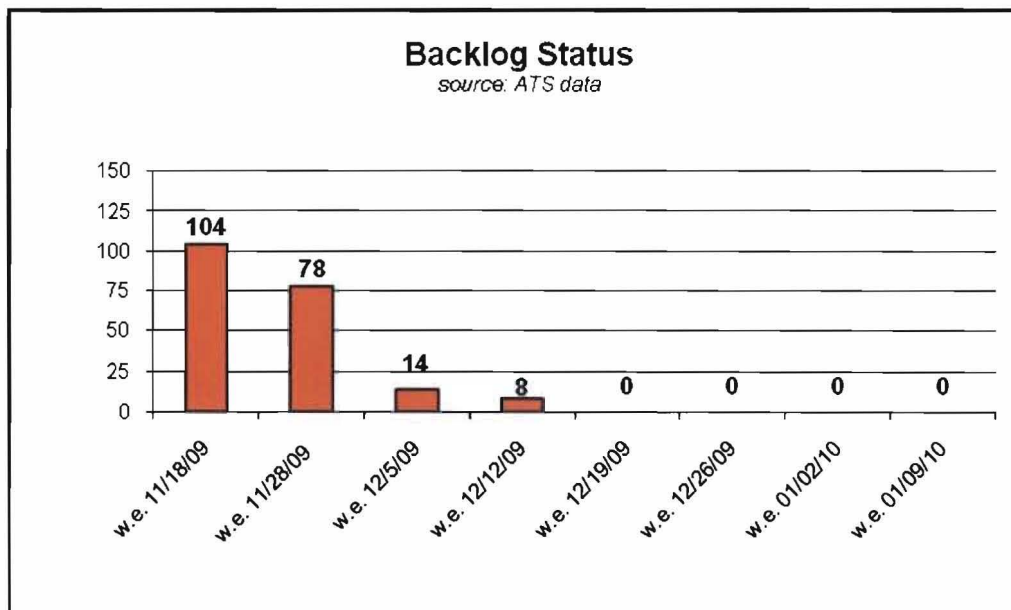
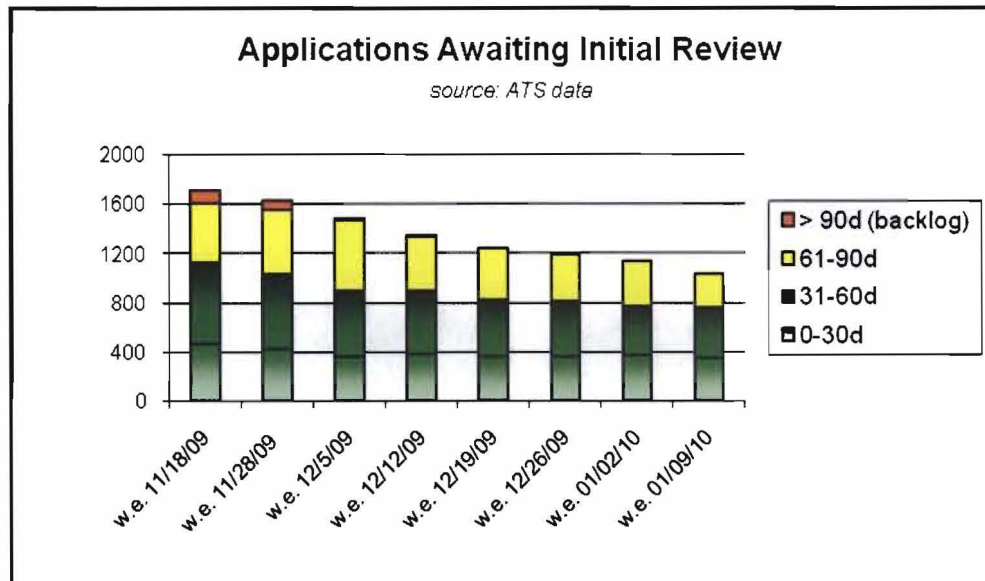
Inventory of Applications Awaiting Initial Review As of January 9, 2010

	0-30d	31-60d	61-90d	>90d	Total
US/CAN	242	318	219	0	779
IMG	57	44	19	0	120
PTAL	51	50	34	0	135
TOTAL	350	412	271	0	1033



Total Number of Applications Awaiting Initial Review As of January 9, 2010

	0-30d	31-60d	61-90d	> 90d (backlog)	Total
w.e. 11/18/09	465	653	488	104	1710
w.e. 11/28/09	418	613	521	78	1630
w.e. 12/5/09	363	534	572	14	1483
w.e. 12/12/09	384	507	447	8	1346
w.e. 12/19/09	365	450	421	0	1236
w.e. 12/26/09	363	446	373	0	1182
w.e. 01/02/10	375	393	370	0	1138
w.e. 01/09/10	350	412	271	0	1033



LICENSING PROGRAM PRODUCTION REPORT

week ending -->	14-Nov	21-Nov	28-Nov	5-Dec	12-Dec	19-Dec	26-Dec	2-Jan	9-Jan	16-Jan	23-Jan	30-Jan
Number of Workdays -->	3	4	3	4	4	4	4	4	4	4	3	5
Applications Received												
US/CAN	67	81	76	35	89	53	59	41	62			
IMG - License	10	15	11	17	11	10	17	11	16			
IMG - PTAL	17	9	16	15	15	16	20	7	10			
Total	94	105	103	67	115	79	96	59	88	0	0	0
Applications Completed (License or PTAL Issued)												
US/CAN	72	75	48	125	76	64	68	87	83			
IMG - License	22	21	16	32	21	20	18	25	23			
IMG - PTAL	NA	NA	NA	NA	NA	NA	NA	NA	NA			
Total	94	96	64	157	97	84	86	112	106	0	0	0
Applications Processed (Initial Review Completed)												
Application Complete Upon Initial Review (ready for licensure)												
US/CAN	31	17	16	38	40	32	30	18	20			
IMG - License	1	1	1	4	1	2	0	0	1			
IMG - PTAL	12	5	2	4	3	1	1	0	5			
Subtotal	44	23	19	46	44	35	31	18	26	0	0	0
Application Deficient												
US/CAN	81	76	54	128	139	118	79	78	129			
IMG - License	29	37	28	27	32	22	20	6	24			
IMG - PTAL	37	47	43	43	50	31	20	17	30			
Subtotal	147	160	125	198	221	171	119	101	183	0	0	0
Total	191	183	144	244	265	206	150	119	209	0	0	0
Inventory Waiting Initial Review												
NEW: 0-30 days			418	363	384	375	363	375	350			
AGING: 31-60 days			613	534	507	450	446	393	412			
AGING: 61-90 days			521	572	447	421	373	370	271			
BACKLOG: Over 90 days			78	14	8	0	0	0	0			
Total			1630	1483	1346	1246	1182	1138	1033	0	0	0
Date of Oldest Application Awaiting Initial Review	07/21/09	08/01/09	08/18/09	08/20/09	09/09/09	09/28/09	10/01/09	10/12/09	10/26/09			
Days out of Compliance	26	22	12	17	4	0	0	0	0			
Age (in days) - Oldest Application Awaiting Review						82	86	82	75			

Augmented Staffing Levels

As stated in previous Licensing Chief's reports to the Board members, the Licensing Program has been inadequately staffed for several years. The number of license applications received annually has risen by three percent per year over the past ten (10) years with no corresponding increase in staff. Also in 2009, five of the ten (10) international medical school license reviewers retired, taking their organizational history and licensing knowledge base with them.

On October 5, 2009, eight (8) new, temporary employees were hired to conduct US/Canadian application reviews (six students and two retired annuitants) and one US license reviewer was promoted to an international medical school license reviewer. On November 1, 2009, eight (8) additional staff were hired. Four were new positions from the Budget Change Proposal submitted in June 2008, two replaced recently retired, long-term license reviewers, and two US license reviewers' vacant positions were filled.

We learned that it takes at least three months to train new license reviewers to conduct an initial review without another licensing staff member reviewing all work products and being available to answer questions. It then takes about six months for a US/Canadian license reviewer and one year for an international medical school license reviewer to be able to independently handle an applicant caseload.

The Licensing Program also received assistance from other MBC program areas to eliminate the backlog. Two staff from the Executive Office were trained to conduct initial US application reviews and devoted part of their normal work hours to the Licensing Program from October through December 2009. Several staff from the Board's headquarters office were also trained to assist the license reviewers after their normal work hours. Licensing staff continued to work overtime, and eliminating the backlog was a full-team effort.

Web Applicant Access System (WAAS)

The Medical Board's online Web Applicant Access System was implemented on December 1, 2009. This system is the result of the Executive Director's initiative to provide online application status lookup services through the Medical Board's Web site to applicants for physician's and surgeon's licenses or postgraduate training authorization letters.

The objectives of the Web Applicant Access System are to:

- Provide real-time license application status information services to applicants
- Reduce the number of application status related calls and email to the Medical Board's Consumer Information Center and Licensing Program staff

Beginning in September 2009, new document handling processes were implemented to record the receipt of all applications and/or documentation received in support of applications into the Department of Consumer Affairs' Applicant Tracking System database on the Application Requirement Status screen. Each required application document is coded with a P, Z, F, D, or N. These single letter entries are interpreted by the online system into the following descriptions:

P = Not Received

Z = Received/Not Reviewed

F = Approved

D = Deficient

N = N/A

On a nightly basis, the information contained in the Applicant Tracking System database is automatically converted and stored in our Web Applicant Access System (web-based system). This allows applicants to access their application status 24/7 by entering their last name and Applicant Tracking System number.

The project team initially identified 17 risks to project achievement. Throughout project development, additional risks were identified and mitigation strategies were developed. To date, all of the major identified risks have been fully mitigated or are in the process of being mitigated. The project team has met its goal to implement the project while still protecting the applicant and the Medical Board from release of confidential or personal information.

Over 75 major tasks have been completed by the project team, including but not limited to:

- Development of several new policies and procedures, particularly related to document handling and recording
- Development of project performance measures, including new call center outcome codes, system usage statistics, and an online user survey (which is currently in the final stages of development)
- Significant clean-up to the Applicant Tracking System database

At the time this report was prepared, the Web Applicant Access System has been operational for 42 days. Preliminary performance measure results show a steady increase in usage of the online system with the majority of visitation weekdays, Monday through Friday. The highest usage occurred Tuesday, January 5, 2010, with 195 unique Internet Protocol address visitors accessing the site. Usage measures also record the number of attempted logins and the number of successful logins. These numbers show that, on average, 84.5 percent of users who attempt to login to their application information page are successful.

The Medical Board's Physician and Consumer Information Unit documents outcomes for all telephone calls they receive. Calls regarding the Web Applicant Access System are coded into one of four outcome codes. The outcome code data for December identified that only 47 calls were received regarding the online system. This represents only 0.6 percent of the total calls received in the Unit. Eighty-one (81) percent of the Web Applicant Access System related calls were applicants requesting their Applicant Tracking System number, which is required for login to the system.

All initial feedback and performance measures data indicate the Web Applicant Access System is a resounding success. On February 1, we plan to send an email blast to all applicants informing them of the online look-up system.

Business Process Reengineering Study

As reported at earlier Board meetings, the Licensing Program hired Hubbert Systems Consulting Inc. in August 2009 to conduct a four-month Business Process Reengineering (BPR) Study. I came to the Medical Board in June 2008 and was assigned the specific objective of leading the effort to evaluate and rebuild the Licensing Program. Establishing a contract with an outside entity to conduct an objective review and evaluation was an essential component of the plan.

The BPR Study is part of a multi-phased plan that was presented to the Medical Board's Executive Committee in October 2009. The BPR study supports the Licensing Program's long-term objectives to:

- Create a sustainable organization with appropriate processes and procedures, resource levels and systems to efficiently process its workload and meet predictable and unanticipated demands
- Continue compliance with current statutes and regulations, including application processing timeframes
- Deliver high level satisfaction to MBC stakeholders - medical license applicants as well as others associated with the licensing process
- Provide a professionally satisfying team work environment

When viewed from the perspective of the Medical Board and its stakeholders, rebuilding the Licensing Program into an efficient, results-oriented program with sufficient flexibility to meet ever-changing and variable demands is one of the organization's top priorities. Implementation of the BPR recommendations will require significant amounts of effort and support from MBC management, staff, and the Board. However, the anticipated benefits of a stronger organization, consistent statutory and regulatory compliance, and increased applicant, healthcare professional, and customer satisfaction more than justify the effort required.

The purpose of the draft report I am presenting to the Board is to share preliminary findings of the BPR study. The BPR report is presented in draft for several reasons including:

- The originally intended recipients of the document were the Licensing Chief and the Executive Director, but over the course of the study the emphasis shifted to a Board presentation.
- The challenges of working down the backlog while simultaneously developing this report led to the limited ability of staff to participate in reviewing the recommendations and developing an implementation plan.
- Some of the recommendations are expensive to implement and will require Board and Executive team support as well as others within the approval chain, and the consultants wanted early input regarding those recommendations.

The consultants observed the organization under a very stressful time - when we were focused on eliminating the licensing backlog – and as such the problems of the organization were fully exposed. The result is a series of recommendations as well as a draft implementation plan that are aimed at breaking the continuous cycles of licensing backlogs and fixing the organization for the future. I strongly believe anything short of adopting the breadth, scope and speed of implementation of the recommended changes in the Licensing Program's infrastructure, information technology and resources will lead to future problems. Systematic change is required to rebuild the Licensing Program into a modern, efficient, customer centric, employee-friendly and sustainable organization.

The recommendations of the draft report can be summarized in the following categories:

- Infrastructure – The Licensing Program needs to develop continuous process improvement methodologies for its core business rules. We are striving to improve communications with applicants and streamline and simplify processes and procedures, especially as they may impact applicants, consumers and shareholders.

- Information Technology – Continue to build on the strong progress made over the last 18 months to bring modern and appropriate technology resources to the Licensing Program. Seeking methods to create significant efficiency changes to the way business is conducted, work is accomplished and timeliness is attained.
- Resources and Organization – Detailed staffing levels are defined as well as a proposed reorganization of the Licensing Program in line with the requirements of the rebuilding process.

The range and scope of the recommendations presented in the BPR outline the appropriate areas that need to be addressed, although I recognize further details still need to be identified. These recommendations represent the framework of what additional areas need improvement.

The consultants estimate that three full-time staff plus input from license reviewers are needed in 2010 to complete 85 percent of the infrastructure-oriented tasks this year. The information technology tasks will take longer, in some cases two to three years to complete, but it is imperative that incremental changes be made in our newly acquired management report and the Web Applicant Access System's capabilities while simultaneously supporting the Department of Consumer Affairs' development of the Breeze database. The consultants also recommend a study on the value of a obtaining a document management system. Implementing the resources and organization's recommendations are very crucial, namely obtaining appropriate staffing and supervision resources and then reorganizing the Licensing Program staff.

It is clear from talking with long-time employees that many of these same recommendations have been made previously, but for varying reasons were not followed through -- a detriment to our stakeholders. If the Licensing Program is to reform itself, the BPR recommendations must be converted to a prioritized list of action items that is supported at the executive level and appropriately staffed. Within the BPR report is a proposed implementation plan; I am confident that if the collective organization embraces this project the Board can look forward to a sustainable Licensing Program.

Over the next few months, I plan to:

- Work with the licensing staff on each of these recommendations with the objective of developing a detailed implementation plan
- Work with the Board's Licensing Committee to discuss the recommendations and draft implementation plan with the objective of finalizing the implementation plan

Summary

As previously stated, the backlog was eliminated and the staff continues to focus on expeditiously performing initial application reviews and moving applications on to licensure. However, given the continual flow of applications, I plan to continue our focus for the next two months on to achieve a comfortable situation where we "manage" application reviews within 60 calendar days (minus 30 days of backlog) and we ensure the timely licensure of the residents and fellows needing licensure or a postgraduate training authorization letter by July 1. To achieve this, the continued use of temporary staff is essential until we reach this more comfortable operating margin and all new positions are filled and staff is fully trained.

During the last quarter we also learned:

- The importance of having a sound resource planning methodology in place so we can better anticipate the resource requirements.
- The opportunities available to improve the efficiency and timeliness of reviewing license applications by revising application forms, instructions and information on the Web site to add clarity for applicants and outside entities completing the forms.
- Licensing Program staff are capable and appropriately qualified to perform their work and with the additional anticipated staff, better infrastructure and appropriate information systems, the Licensing Program is capable of executing its work efficiently.
- Inappropriate supervision levels in the Licensing Program present a substantial hindrance to our ability to plan and implement critical organization initiatives.

Lastly, a new report was recently generated showing application processing dates back to July 2004. The report shows the Licensing Program had a licensing backlog from January 2005 to January 2007, and then just a few months later the most recent backlog which started in October 2007 and was only recently eliminated on December 23, 2009. (A chart displaying this information can be found in the draft Business Process Reengineering Study Report.)

This information highlights the historical and cyclical nature of the licensing backlog problems. Any efforts to end this cycle will require the commitment of the Board, Executive staff, and the Licensing Program management to commit to a process of change. This will require sustained leadership and vision. We can change the organization, and the preliminary report from the consultants validates that we are on the correct path. I need the Board's support and understanding that change is not easy, and requires a long-term commitment to a vision and plan for implementing that vision.

LICENSING PROGRAM
CHIEF'S REPORT

WORKLOAD REPORT
as of December 31, 2009

FISCAL YEAR 2009-10

CONSUMER INFORMATION UNIT				
	FY 08/09	FY09/10-Q1	FY09/10-Q2	FY09/10-Q3
Total Calls Answered	64,177	27,117	12,049	
Calls Requesting Call Back	7,074	4,951	3,021	
Calls Abandoned	7,875	4,967	3,336	
Address Changes Completed	27,984	3,346	2,302	

PHYSICIAN & SURGEON DATA				
	FY 08/09	FY09/10-Q1	FY09/10-Q2	FY09/10-Q3
Applications Received	6,169	1,651	1,555	
Licenses Issued	4,688	1,107	1,132	
Renewals Issued	60,775	14,883	15,668	

SPECIAL PROGRAMS*										
Permit Category *	Applications Received		Applications Reviewed		Permits Issued		Permits Renewed		Site Visits	
	FY09/10-Q1	FY09/10-Q2	FY09/10-Q1	FY09/10-Q2	FY09/10-Q1	FY09/10-Q2	FY09/10-Q1	FY09/10-Q2	FY09/10-Q1	FY09/10-Q2
2111	12	4	12	4	17	10	11	1	0	0
2112	1	0	1	0	1	1	0	0	0	0
2113	5	1	5	1	13	4	11	10	0	0
2168	1	0	1	0	0	0	1	0	0	0
2072	0	0	0	0	0	0	0	0	0	0
1327	1	0	1	0	0	0	2	1	0	0

*2111 - Visiting Fellow (doesn't satisfy postgraduate training required for licensure)

2112 - Hospital Fellowship Program Non-Citizen (does not satisfy postgraduate training required for licensure)

2113 - Medical School Faculty Member (may satisfy postgraduate training required for licensure)

2168 - Special Faculty Permit (academically eminent; unrestricted practice within sponsoring medical school - not eligible for licensure)

2072 - Special Faculty Permit - Correctional Facility

1327 - Special Faculty Permit - Hospital

INTERNATIONAL MEDICAL SCHOOL APPLICATIONS FY 09/10					
	FY 08/09	Q1	Q2	Q3	Q4
New Applications Received	2	0	1		
Applications Sent to Consultant for Review	0	0	0		
Applications Received Pending Consultant Assignment	2	0	1		

LICENSED MIDWIVES					
	FY 08/09	Q1	Q2	Q3	Q4
Applications Received	16	2	3		
Licenses Issued	23	2	3		
Licenses Renewed	78	18	29		

OPTICAL REGISTRATIONS					
	FY 08/09	Q1	Q2	Q3	Q4
Business Registrations Issued	43	19	60		
Out-of-State Business Registrations Issued	4	1	0		
Spectacle Lens Registrations Issued	195	56	18		
Contact Lens Registrations Issued	114	36	11		
Spectacle Lens Registrations Renewed	801	214	200		
Contact Lens Registrations Renewed	320	82	93		

RESEARCH PSYCHOANALYST (RP)					
	FY 08/09	Q1	Q2	Q3	Q4
RP Applications Received	3	0	0		
RP Licenses Issued	6	0	1		

FICTITIOUS NAME PERMITS (FNP)					
	FY 08/09	Q1	Q2	Q3	Q4
P&S - FNP Issued	1268	276	227		
Podiatric FNP Issued	31	6	6		

AMBULATORY SURGERY CENTER APPROVALS*					
	FY 08/09	Q1	Q2	Q3	Q4
Renewal Applications Received	0	0	4	N/A	N/A
Renewal Applications Issued	0	0	4	N/A	N/A

* Approval granted for three (3) years

LICENSING CHIEF'S REPORT
AGENDA ITEM #13B
PRELIMINARY FINDINGS OF THE
BUSINESS PROCESS REENGINEERING STUDY
WILL BE PROVIDED UNDER SEPARATE COVER

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: January 12, 2010
 ATTENTION: Medical Board of California
 DEPARTMENT: Licensing Operations
 SUBJECT: Midwifery Advisory Council
 STAFF CONTACT: Deborah Pellegrini, Chief

REQUESTED ACTION: Accept recommendations from the Midwifery Advisory Council (MAC) regarding the appropriate terms and conditions for remedial training in licensed midwife quality of care cases.

STAFF RECOMMENDATION: Staff recommend that the Board accept the recommendations of the MAC.

EXECUTIVE SUMMARY: Business and Professions Code section 2509 states that the Board shall create and appoint a Midwifery Advisory Council consisting of licensees of the board in good standing, who need not be members of the Board, and members of the public who have an interest in midwifery practice, including, but not limited to, home births. At least one-half of the council members shall be California licensed midwives.

The Division of Licensing had asked the MAC to look into remediation issues. The MAC discussed various issues at a number of meetings. At the August 20, 2009 Midwifery Advisory Council (MAC) meeting, the Council voted to create a subcommittee, referred to as the Midwifery Task Force, to review the ongoing issues regarding the appropriate terms and conditions for remedial training in licensed midwife quality of care cases. The first meeting of the task force took place on September 29, 2009. Faith Gibson, Licensed Midwife and Chair of the MAC, Ruth Haskins, M.D., Obstetrician/ Gynecologist and Vice Chair of the MAC, and Karen Ehrlich, Licensed Midwife, participated as task force members in leading this meeting discussion. The Task force reported back to the Board at the January 7, 2010 MAC meeting.

The MAC recommends to the Board that the following are appropriate terms and conditions for remedial training in licensed midwife quality of care cases (e.g. charges of negligence, gross negligence, incompetence, etc.): 1) Continuing education offered by any of the organizations listed in Title 16, California Code of Regulations, section 1379.26; 2) Examination (oral or written exam, or clinical evaluation similar to the challenge mechanism); and 3) Practice Monitor (similar to that for physicians).

Further, the MAC recommends that the Board base its decision whether to include one or more of the above terms and conditions on the nature of the conduct that gave rise to the discipline. In addition, the MAC members will provide a list of some of the available courses to the Board's Probation Unit.

FISCAL CONSIDERATIONS:
None.

PREVIOUS MBC AND/OR COUNCIL ACTION:
Not applicable.

Senate Bill No. 132

CHAPTER 635

An act to add Chapter 7.8 (commencing with Section 3575) to Division 2 of the Business and Professions Code, relating to healing arts, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 23, 2009. Filed with
Secretary of State October 23, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 132, Denham. Polysomnographic technologists: sleep and wake disorders.

Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician assistants by the Physician Assistant Committee of the Medical Board of California. Existing law prescribes the medical services that may be performed by a physician assistant under the supervision of a licensed physician and surgeon.

Existing law, the Respiratory Care Practice Act, provides for the licensure and regulation of respiratory professionals by the Respiratory Care Board of California. Existing law defines the practice of respiratory therapy and prohibits its practice without a license issued by the board, subject to certain exceptions.

This bill would require the Medical Board of California to adopt regulations within one year after the effective date of this act relative to the qualifications for certified polysomnographic technologists, including requiring those technologists to be credentialed by a board-approved national accrediting agency, to have graduated from a board-approved educational program, and to have passed a board-approved national certifying examination, with a specified exception for that examination requirement for a 3-year period. The bill would prohibit a person from using the title "certified polysomnographic technologist" or engaging in the practice of polysomnography unless he or she undergoes a Department of Justice background check, as specified, is registered as a certified polysomnographic technologist, is supervised and directed by a licensed physician and surgeon, and meets certain other requirements. The bill would define polysomnography to mean the treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders, as specified. The bill would further require the board, within one year after the effective date of this act, to adopt regulations related to the employment of polysomnographic technicians and trainees.

This bill would require polysomnographic technologists to apply to and register with the Medical Board of California for fees to be fixed by the

board at no more than \$100 each, and to renew their registration biennially for a fee of no more than \$150. The bill would require the deposit of those fees in the Contingent Fund of the Medical Board of California, a continuously appropriated fund, thereby making an appropriation. The bill would further set forth specified disciplinary standards and procedures.

The bill would specify that these provisions do not apply to diagnostic electroencephalograms conducted in accordance with the guidelines of the American Clinical Neurophysiology Society.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Chapter 7.8 (commencing with Section 3575) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 7.8. POLYSOMNOGRAPHIC TECHNOLOGISTS

3575. (a) For the purposes of this chapter, the following definitions shall apply:

(1) "Board" means the Medical Board of California.

(2) "Polysomnography" means the treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders. Polysomnography shall include, but not be limited to, the process of analysis, monitoring, and recording of physiologic data during sleep and wakefulness to assist in the treatment of disorders, syndromes, and dysfunctions that are sleep-related, manifest during sleep, or disrupt normal sleep activities. Polysomnography shall also include, but not be limited to, the therapeutic and diagnostic use of oxygen, the use of positive airway pressure including continuous positive airway pressure (CPAP) and bilevel modalities, adaptive servo-ventilation, and maintenance of nasal and oral airways that do not extend into the trachea.

(3) "Supervision" means that the supervising physician and surgeon shall remain available, either in person or through telephonic or electronic means, at the time that the polysomnographic services are provided.

(b) Within one year after the effective date of this chapter, the board shall promulgate regulations relative to the qualifications for the registration of individuals as certified polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees. The qualifications for a certified polysomnographic technologist shall include all of the following:

(1) He or she shall have valid, current credentials as a polysomnographic technologist issued by a national accrediting agency approved by the board.

(2) He or she shall have graduated from a polysomnographic educational program that has been approved by the board.

(3) He or she shall have passed a national certifying examination that has been approved by the board, or in the alternative, may submit proof to the board that he or she has been practicing polysomnography for at least five years in a manner that is acceptable to the board. However, beginning three years after the effective date of this chapter, all individuals seeking to obtain certification as a polysomnographic technologist shall have passed a national certifying examination that has been approved by the board.

(c) In accordance with Section 144, any person seeking registration from the board as a certified polysomnographic technologist, a polysomnographic technician, or a polysomnographic trainee shall be subject to a state and federal level criminal offender record information search conducted through the Department of Justice as specified in paragraphs (1) to (5), inclusive, of this subdivision.

(1) The board shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all polysomnographic technologist, technician, or trainee certification candidates for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this subdivision. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the board.

(3) The Department of Justice shall provide state and federal responses to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The board shall request from the Department of Justice subsequent arrest notification service, pursuant to Section 11105.2 of the Penal Code, for persons described in this subdivision.

(5) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this subdivision. The individual seeking registration shall be responsible for this cost.

(d) An individual may use the title "certified polysomnographic technologist" and may engage in the practice of polysomnography only under the following circumstances:

(1) He or she is registered with the board and has successfully undergone a state and federal level criminal offender record information search pursuant to subdivision (c).

(2) He or she works under the supervision and direction of a licensed physician and surgeon.

(3) He or she meets the requirements of this chapter.

(e) Within one year after the effective date of this chapter, the board shall adopt regulations that establish the means and circumstances in which a licensed physician and surgeon may employ polysomnographic technicians

and polysomnographic trainees. The board may also adopt regulations specifying the scope of services that may be provided by a polysomnographic technician or polysomnographic trainee. Any regulation adopted pursuant to this section may specify the level of supervision that polysomnographic technicians and trainees are required to have when working under the supervision of a certified polysomnographic technologist or licensed health care professional.

(f) This section shall not apply to California licensed allied health professionals, including, but not limited to, respiratory care practitioners, working within the scope of practice of their license.

(g) Nothing in this chapter shall be interpreted to authorize a polysomnographic technologist, technician, or trainee to treat, manage, control, educate, or care for patients other than those with sleep disorders or to provide diagnostic testing for patients other than those with suspected sleep disorders.

3576. (a) A registration under this chapter may be denied, suspended, revoked, or otherwise subjected to discipline for any of the following by the holder:

(1) Incompetence, gross negligence, or repeated similar negligent acts performed by the registrant.

(2) An act of dishonesty or fraud.

(3) Committing any act or being convicted of a crime constituting grounds for denial of licensure or registration under Section 480.

(4) Violating or attempting to violate any provision of this chapter or any regulation adopted under this chapter.

(b) Proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all powers granted therein.

3577. (a) Each person who applies for registration under this chapter shall pay into the Contingent Fund of the Medical Board of California a fee to be fixed by the board at a sum not in excess of one hundred dollars (\$100).

(b) Each person to whom registration is granted under this chapter shall pay into the Contingent Fund of the Medical Board of California a fee to be fixed by the board at a sum not in excess of one hundred dollars (\$100).

(c) The registration shall expire after two years. The registration may be renewed biennially at a fee which shall be paid into the Contingent Fund of the Medical Board of California to be fixed by the board at a sum not in excess of one hundred fifty dollars (\$150).

(d) The money in the Contingent Fund of the Medical Board of California that is collected pursuant to this section shall be used for the administration of this chapter.

3578. Nothing in this chapter shall prohibit a clinic or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code from employing a certified polysomnographic technologist.

3579. Nothing in this chapter shall apply to diagnostic electroencephalograms conducted in accordance with the guidelines of the American Clinical Neurophysiology Society.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the health and safety of the general public by providing needed qualifications for, and oversight of, the practice of polysomnography at the earliest possible time, it is necessary that this act take effect immediately.

O

Assembly Bill No. 501

CHAPTER 400

An act to amend Sections 2054 and 2435 of, and to add Section 2088 to, the Business and Professions Code, relating to medicine.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 501, Emmerson. Physicians and surgeons.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law makes it a misdemeanor for a person who is not licensed as a physician and surgeon under the act to use certain words, letters, and phrases or any other terms that imply that he or she is authorized to practice medicine as a physician and surgeon.

This bill would authorize certain persons who are not licensed as physicians and surgeons under the act to use the words "doctor" or "physician," the letters or prefix "Dr.," or the initials "M.D.," as specified.

Existing law authorizes the board to issue a probationary license subject to specified terms and conditions, including restrictions against engaging in certain types of medical practice. Existing law authorizes a licensee who demonstrates that he or she is unable to practice medicine due to a disability to request a waiver of the license renewal fee. Under existing law, a licensee granted that waiver is prohibited from practicing medicine until he or she establishes that the disability no longer exists or signs an agreement, under penalty of perjury, agreeing to limit his or her practice in the manner prescribed by the reviewing physician. Existing law authorizes the board to commence disciplinary actions relating to physicians and surgeons including, but not limited to, unprofessional conduct, as defined, and to issue letters of reprimand, and suspend and revoke licenses.

This bill would authorize an applicant for a license who is otherwise eligible for a license but is unable to practice some aspects of medicine safely due to a disability to receive a limited license if the applicant pays the license fee and signs an agreement agreeing to limit his or her practice in the manner prescribed by the reviewing physician and agreed to by the board. The bill would make any person who knowingly provides false information in this agreement subject to any sanctions available to the board. The bill would authorize the board to require the applicant to obtain an independent clinical evaluation of his or her ability to practice medicine safely as a condition of receiving the limited license.

Under existing law, licensees of the board are required to pay licensure fees, including an initial licensing fee of \$790 and a biennial renewal fee

of \$790. Existing law authorizes the board to increase those fees in certain circumstances and states the intent of the Legislature that, in setting these fees, the board seek to maintain a reserve in the Contingent Fund of the Medical Board equal to 2 months' operating expenditures.

This bill would require those fees to be fixed by the board at a maximum of \$790, while retaining the authority of the board to raise those fees in certain circumstances. The bill would state the intent of the Legislature that, in setting those fees, the board seek to maintain a reserve in the Contingent Fund of the Medical Board in an amount not less than 2 nor more than 4 months' operating expenditures. The bill would also require the Office of State Audits and Evaluations within the Department of Finance to commence a preliminary review of the board's financial status by January 1, 2012, and to make the results of that review available upon request by June 1, 2012, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 2054 of the Business and Professions Code is amended to read:

2054. (a) Any person who uses in any sign, business card, or letterhead, or, in an advertisement, the words "doctor" or "physician," the letters or prefix "Dr.," the initials "M.D.," or any other terms or letters indicating or implying that he or she is a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, or that he or she is entitled to practice hereunder, or who represents or holds himself or herself out as a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as a physician and surgeon under this chapter, is guilty of a misdemeanor.

(b) A holder of a valid, unrevoked, and unsuspended certificate to practice podiatric medicine may use the phrases "doctor of podiatric medicine," "doctor of podiatry," and "podiatric doctor," or the initials "D.P.M.," and shall not be in violation of subdivision (a).

(c) Notwithstanding subdivision (a), any of the following persons may use the words "doctor" or "physician," the letters or prefix "Dr.," or the initials "M.D.":

(1) A graduate of a medical school approved or recognized by the board while enrolled in a postgraduate training program approved by the board.

(2) A graduate of a medical school who does not have a certificate as a physician and surgeon under this chapter if he or she meets all of the following requirements:

(A) If issued a license to practice medicine in another jurisdiction, has not had that license revoked or suspended by any jurisdiction.

(B) Does not otherwise hold himself or herself out as a physician and surgeon entitled to practice medicine in this state except to the extent authorized by this chapter.

(C) Does not engage in any of the acts prohibited by Section 2060.

(3) A person authorized to practice medicine under Section 2111 or 2113 subject to the limitations set forth in those sections.

SEC. 2. Section 2088 is added to the Business and Professions Code, to read:

2088. (a) An applicant for a physician's and surgeon's license who is otherwise eligible for that license but is unable to practice some aspects of medicine safely due to a disability may receive a limited license if he or she does both of the following:

(1) Pays the initial license fee.

(2) Signs an agreement on a form prescribed by the board in which the applicant agrees to limit his or her practice in the manner prescribed by the reviewing physician and agreed to by the board.

(b) The board may require the applicant described in subdivision (a) to obtain an independent clinical evaluation of his or her ability to practice medicine safely as a condition of receiving a limited license under this section.

(c) Any person who knowingly provides false information in the agreement submitted pursuant to subdivision (a) shall be subject to any sanctions available to the board.

SEC. 3. Section 2435 of the Business and Professions Code is amended to read:

2435. The following fees apply to the licensure of physicians and surgeons:

(a) Each applicant for a certificate based upon a national board diplomate certificate, each applicant for a certificate based on reciprocity, and each applicant for a certificate based upon written examination, shall pay a nonrefundable application and processing fee, as set forth in subdivision (b), at the time the application is filed.

(b) The application and processing fee shall be fixed by the board by May 1 of each year, to become effective on July 1 of that year. The fee shall be fixed at an amount necessary to recover the actual costs of the licensing program as projected for the fiscal year commencing on the date the fees become effective.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee, if any, in an amount fixed by the board consistent with this section. The initial license fee shall not exceed seven hundred ninety dollars (\$790). An applicant enrolled in an approved postgraduate training program shall be required to pay only 50 percent of the initial license fee.

(d) The biennial renewal fee shall be fixed by the board consistent with this section and shall not exceed seven hundred ninety dollars (\$790).

(e) Notwithstanding subdivisions (c) and (d), and to ensure that subdivision (k) of Section 125.3 is revenue neutral with regard to the board, the board may, by regulation, increase the amount of the initial license fee and the biennial renewal fee by an amount required to recover both of the following:

(1) The average amount received by the board during the three fiscal years immediately preceding July 1, 2006, as reimbursement for the reasonable costs of investigation and enforcement proceedings pursuant to Section 125.3.

(2) Any increase in the amount of investigation and enforcement costs incurred by the board after January 1, 2006, that exceeds the average costs expended for investigation and enforcement costs during the three fiscal years immediately preceding July 1, 2006. When calculating the amount of costs for services for which the board paid an hourly rate, the board shall use the average number of hours for which the board paid for those costs over these prior three fiscal years, multiplied by the hourly rate paid by the board for those costs as of July 1, 2005. Beginning January 1, 2009, the board shall instead use the average number of hours for which it paid for those costs over the three-year period of fiscal years 2005–06, 2006–07, and 2007–08, multiplied by the hourly rate paid by the board for those costs as of July 1, 2005. In calculating the increase in the amount of investigation and enforcement costs, the board shall include only those costs for which it was eligible to obtain reimbursement under Section 125.3 and shall not include probation monitoring costs and disciplinary costs, including those associated with the citation and fine process and those required to implement subdivision (b) of Section 12529 of the Government Code.

(f) Notwithstanding Section 163.5, the delinquency fee shall be 10 percent of the biennial renewal fee.

(g) The duplicate certificate and endorsement fees shall each be fifty dollars (\$50), and the certification and letter of good standing fees shall each be ten dollars (\$10).

(h) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Contingent Fund of the Medical Board of California in an amount not less than two nor more than four months' operating expenditures.

(i) Not later than January 1, 2012, the Office of State Audits and Evaluations within the Department of Finance shall commence a preliminary review of the board's financial status, including, but not limited to, its projections related to expenses, revenues, and reserves, and the impact of the loan from the Contingent Fund of the Medical Board of California to the General Fund made pursuant to the Budget Act of 2008. The office shall make the results of this review available upon request by June 1, 2012. This review shall be funded from the existing resources of the office during the 2011–12 fiscal year.