



**MEDICAL BOARD OF CALIFORNIA**  
Executive Office



Access to Care Committee  
Embassy Suites LAX South  
1440 Imperial Hwy  
El Segundo, CA 90245  
January 29, 2009

**MINUTES**

**Agenda Item 1. Call to Order**

Dr. Gitnick called the meeting to order at 1:35 pm. Roll was taken; all members were present. Notice had been sent to all interested parties.

Members present:

Gary Gitnick, M.D., Chair  
Hedy Chang  
Shelton Duruisseau, Ph.D.  
Gerrie Schipske, R.N.P., J.D.  
Frank V. Zerunyan, J.D.  
Barbara Yaroslavsky

Other Board members present:

Jorge Carreon, M.D.  
Richard Fantozzi, M.D.

Staff present:

Kim Kirchmeyer, Deputy Director  
Linda K. Whitney, Chief of Legislation  
Kevin A. Schunke, Committee Manager  
Candis Cohen, Public Information Officer  
Janie Cordray, Research Manager  
Abbie French, Telemedicine/Special Projects Manager  
Randy Freitas, Business Services Staff  
Kurt Heppler, Legal Counsel  
Ross Locke, Business Services Staff  
Kelly Nelson, Legislative Analyst  
Pat Park, Licensing Analyst  
Debbie Pellegrini, Chief of Licensing  
Paulette Romero, Associate Analyst

Members of the Public:

Eric Batch, America Heart Association  
Zennie Coughlin, Kaiser Permanente  
Meredith D'Angelo, CPIL  
Julie D'Angelo Fellmuth, CPIL  
Tara Leigh Kittle, Blue Diamond Foundation  
Francesca Lucero, Blue Diamond Foundation  
Brett Michelin, CMA  
Patrick McKenna, CPIL

**Agenda Item 2. Approval of Minutes of January 31, 2008 meeting**

The minutes of the January 31, 2008 meeting were considered. Motion/second/carried Schipske/Yaroslavsky to approve as written.

**Agenda Item 3. Update on California Physician Corps – Ms. Yaroslavsky**

Ms. Yaroslavsky reported a new director, Lupe Alonzo-Diaz, had been appointed to the Health Professions Education Foundation (HEPF); with the experience Ms. Alonzo-Diaz brings to her position, the HPEF should have a successful and productive future, despite staff vacancies, which currently impact all agencies.

Funding for the California Physician Corps Loan Repayment Program has been significantly improved. The Governor's signed AB 2439 (De La Torre), which permanently assessed all Board licensees a \$25 fee upon initial licensure or renewal. Further, the Governor signed SB 1379 (Ducheny), which provided permanent funding to the program from the Dept. of Managed Health Care via their fines and penalty assessments. Despite these major permanent funding sources, HPEF is always looking for additional funding sources to address access to care issues throughout the state.

Dr. Gitnick congratulated Ms. Yaroslavsky on her work as Chair of HPEF's Development Committee. He stated as a member of the HPEF Board of Trustees, he also is striving to identify additional funding sources, since the number of applicants for all HPEF programs is continuously increasing.

**Agenda Item 4. Implementation of AB 329 (Chap. 386, Stats. of 2007, Nakanishi) – Ms. Johnston and Ms. French**

Abbie French, who is the Board's Telemedicine and Special Projects Manager, offered a summary of AB 329. This new law authorizes the Medical Board to establish a pilot program to expand the practice of telemedicine. Under AB 329, the Board may implement the program by convening a working group to develop methods, using a telemedicine model, of delivering health care to those with chronic diseases and delivering other health information. This law requires the Board to make recommendations regarding its findings to the Legislature within one calendar year of the commencement date of the pilot program.

Ms. French reported the Chronic Disease Management Program (CDMP) of the University of California Davis Health System has submitted a proposal which is very much in line with what the Board is required to do per AB 329. The proposal before the Committee is designed to resolve health disparities for diabetics—primarily focused on Hispanic and African Americans—building on disease management resources and utilizing telemedicine technologies to connect patients, providers, and community resources in an effective manner that offers enormous potential for improvement.

A major strength of this proposal is that this CDMP program, based in Sacramento, has already developed the diabetes chronic diseases health education content with significant investment from UC Davis internal funding. UC Davis is also known widely for its telemedicine programs and has highly trained staff in using health information technologies.

The primary goals of this project are to reduce health care disparities in underserved communities, primarily Hispanic and African American patients, to document that clinical outcomes will reach equity and patients will stay healthy longer with fewer complications, and to develop a long-term strategy for continuing education on chronic disease management for patients in underserved communities via telemedicine.

Dr. Gitnick asked Ms. French to work collaboratively with OSHPD Director David Carlisle and Health and Human Services Secretary Kim Belshe on this project.

Ms. French requested the Access to Care Committee recommend to the full Board directing staff to move forward with this proposal, including securing funding to implement this project. Motion/second/carried Yaroslavsky/Schipske.

**Agenda Item 5. Update on Report: Malpractice Insurance for Physicians Offering Voluntary Unpaid Services; AB 2342 (Chap. 276, Statutes of 2006, Nakanishi) – Ms. Kirchmeyer and Ms. French**

Ms. French discussed the report on malpractice insurance for physicians offering voluntary unpaid services. As required by AB 2342, the Board was directed to study the issue of providing medical malpractice insurance for physicians who provide voluntary unpaid services to the medically underserved and to report its finding to the Legislature. The study was to include the cost and process of administering such a program, options for providing medical malpractice insurance and how the coverage could be funded, and whether the voluntary licensure surcharge fee is sufficient to fund the provision of medical malpractice insurance for the physicians.

The Board contracted with UC Davis to perform this study and on December 31st the study was received. As identified in the handout provided by Ms. French, there were three models for liability protection. They are:

1. Enactment of immunity statutes in which the provider is not liable for common negligence, but only for gross negligence or willful misconduct.
2. Enactment of immunity statutes in which, under circumstances proscribed by the state, a physician volunteer would be considered a state employee when providing uncompensated care.
3. A State-established malpractice insurance program in which the state either purchases insurance for physician volunteers or establishes a self-insured pool.

In addition to the liability protection models, the study found if California desires to promote physician volunteerism, then legislation must address the following:

1. Determine the settings where liability protection would apply (free clinics, non-profits, hospitals, private physician offices, etc.).
2. Determine whether there would be any limitation to the type of care that may be rendered (surgical, anesthesia, minor procedures, primary care, etc.)
3. Identify what patients would be covered under the program.
4. Establish a clinic and physician registration process.

In summary, Ms. French reported that as required by law, the report was submitted to the Legislature and any implementation of a program would likely require Legislation. At this point, staff recommends the Board wait to see what the legislative interest is in this subject.

Mr. Zerunyan stated his opinion that the tort laws in California are the greatest barrier to broader access to care to all people. His recommendation would be to make a policy recommendation to the Legislature that an immunity statute be offered for volunteer physicians.

Dr. Fantozzi, spoke briefly to summarize the Board's efforts over the past five years, focusing on volunteerism. Dr. Fantozzi said in his meetings with malpractice carriers, the insurance companies were willing to discuss creative options for coverage, such as the carriers self-funding umbrella policies for those volunteers working in community clinics, if the volunteers would focus on primary care instead of high-risk specialties. Dr. Gitnick and Dr. Fantozzi both agreed any increase in license fees would be an impediment to improved medical care in California.

Brett Michelin, representing CMA, stated CMA supports increased volunteerism in all corners of California, so long as there are no increased license fees. CMA is attempting to reach out to numerous members of the legislature, who have expressed interest in "Good Samaritan laws" following the decision of the California Supreme Court last fall.

Ms. Kirchmeyer referenced the finding in the report that California seems to be one of only seven states which did not offer "Good Samaritan" immunity for volunteers.

Ms. Yaroslavsky and Ms. Schipske encouraged staff to work with HPEF, the Board of Registered Nursing, and other stakeholders to participate in meetings to discuss this further.

Motion/second/carried Yaroslavsky/Chang to recommend to the full Board that staff should convene a working group of interested parties to discuss this further and to make a joint policy statement to the Legislature.

#### **Agenda Item 6. Public Comment on Items not on the Agenda**

Tara Leigh Kittle, a member of the public, made suggestions:

1. insurance carriers should be prohibited from overriding physician orders
2. reduce malpractice insurance costs by placing caps on lawsuits
3. encourage the State to compensate hospitals for the costs of offering medical care to the uninsured

#### **Agenda Item 7. Adjournment**

The meeting was adjourned at 2:25 pm.