

**MEDICAL BOARD OF CALIFORNIA**

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**Agenda Item 2****Medical Board of California**

**Hilton Los Angeles Airport Hotel**  
**Pacific A Room**  
**5711 West Century Blvd.**  
**Los Angeles, CA 90045**

**February 1 – 2, 2007**

**MINUTES****Agenda Item 2      Call to Order/Roll Call**

Mr. Alexander called the meeting to order on February 1, 2007 at 4:05 p.m. A quorum was present and notice had been sent to interested parties.

**Members Present:**

Steve Alexander, President  
Cesar Aristeiguieta, M.D.  
James A. Bolton, Ph.D.  
Hedy Chang  
John Chin, M.D.  
Steven Corday, M.D.  
Dorene Dominguez  
Shelton Duruisseau, Ph.D.  
Richard D. Fantozzi, M.D.  
Gary Gitnick, M.D.  
Laurie C. Gregg, M.D.  
Mitchell S. Karlan, M.D.  
Reginald Low, M.D.  
Mary Lynn Moran, M.D.  
Ronald H. Wender, M.D.  
Barbara Yaroslavsky  
Frank V. Zerunyan

**Members Absent:**

Ronald L. Moy, M.D.  
Janet Salomonson, M.D.

**Staff Present:**

David T. Thornton, Executive Director  
Kimberly Kirchmeyer, Deputy Director

Kathi Burns, Manager, Licensing Unit  
Don Chang, Staff Counsel, DCA Legal Office  
Candis Cohen, Public Information Officer  
Janie Cordray, Research Specialist  
Kurt Heppler, Staff Counsel, DCA Legal Office  
Valerie Moore, Associate Analyst, Enforcement Program  
Kelly Nelson, Legislative Analyst  
Richard Prouty, Manager, Discipline & Staff Services Unit  
Gary Qualset, Chief of Licensing  
Regina Rao, Business Services  
Paulette Romero, Associate Analyst  
Teresa Schaeffer, Executive Assistant  
Kevin Schunke, Regulation Coordinator  
Anita Scuri, Senior Staff Counsel, DCA Legal Office  
Renee Threadgill, Chief of Enforcement  
Frank Valine, Diversion Program Administrator  
Linda K. Whitney, Chief of Legislation  
Curt Worden, Manager, Licensing Section

**Members of the Audience:**

Sandra Bressler, California Medical Association  
Zennie Coughlin, Kaiser Permanente  
Julie D'Angelo Fellmeth, Center for Public Interest Law  
Richard Figueroa, Governor's Office  
Faith Gibson, California College of Midwives  
James Hay, M.D., California Medical Association  
Lewis Michaelson, Katz & Associates  
Robert Puleo, Division of Legislative & Regulatory Review, DCA  
Carlos Ramirez, Office of the Attorney General  
Donna Russell, California Citizen's for Health Freedom  
Antonette Sorrick, Deputy Director, DCA

Dorene Dominguez was sworn in as a member of the board by President, Steve Alexander.

**Agenda Item 3      Approval of Minutes from November 2 – 3, 2007 Meeting**

It was m/Yaroslavsky, s/Bolton, c/all to approve the minutes from the November 2 - 3, 2007 meeting with the following corrections: on page 8, it should read Mr. Zerunyan supports "*elimination*" of the oral argument process, on page 10 under PEC report delete the second word "*should*", and on page 11 under Health Manpower Project add the word "*is*". Ms. Dominguez abstained from the motion.

**In order to remain consistent with the record, the agenda items presented in these minutes are listed in the order discussed at the February 1-2, 2007 meeting.**

### **Agenda Item 5      Executive Director's Report**

Mr. Thornton deferred his report to Friday, February 2, 2007 with the exception of the following item:

#### **C.      Board Retreat and Strategic Planning Update**

Mr. Thornton directed the members' attention to a copy of a memo on page 31-32 of their board packet outlining the timeline for the two-day Board Retreat and explained it was out of date. He asked Ms. Kirchmeyer to present the new timeline to the members and introduced Lewis Michaelson, the board's consultant and facilitator for the strategic planning meeting to be held on March 1 & 2, 2007 in San Diego.

Mr. Michaelson discussed his strategic planning method and stated he would work with staff and the Committee to customize the process to meet the specific needs of the Board. A draft of the Strategic Plan will be completed in March for review and input with final approval of the full board at the July 2007 meeting.

### **Agenda Item 6      Governor's Agenda for Access to Care**

Richard Figueroa, Health Policy Advisor for the Governor, was present to discuss the Governor's agenda regarding healthcare for Californians. He provided a summary of the Governor's healthcare proposal to transform the current healthcare system into one that is more efficient and effective for all Californians. A handout of the Governor's proposal was provided to all the members and guests in attendance.

Discussion by the members ensued expressing support of the Governor's healthcare proposal plan and the boldness to open the door and look at the problem.

The board heard public testimony from Tara Kittle in support of the Governor's healthcare proposal plan.

### **Agenda Item 8      Board Restructure**

Mr. Thornton directed the members' attention to a copy of a document dated February 1, 2007 being handed out which outlines the background and discussion on the board restructure proposal. He provided a brief overview of the history and discussions regarding the issue of board restructure as it related to SB 231.

Mr. Thornton proposed the board adopt the following recommendation:

- To consolidate the current two division structure of the board into a single board with standing committees that can be established at the discretion of the board and its leader.

- Reduce the size of the board from 21 to between 19 to 15 members with a physician member majority of one.
- Delegate the authority to the board's Executive Director to approve stipulated agreements for surrender of license and default proposed decisions.
- Revamp the oral argument process to achieve more effective consumer protection and timely judicial processes.

Mr. Robert Puleo, Assistant Deputy Director, Legislative and Regulatory Review with the Department of Consumer Affairs, was present to respond to questions regarding the letter received from Happy Chastain with the State and Consumer Services Agency in support of the concept of reducing the membership of the board.

It was m/Fantozzi, s/Gitnick to approve the proposed recommendation to consolidate the two division structure of the board into a board with standing committees that can be established at the discretion of the board. To reduce the size of the board from 21 to 19 members. To delegate the authority to the board's Executive Director to approve stipulated agreements for surrender of license and default proposed decisions. To review the oral argument process to achieve more effective consumer protection and timely judicial processes.

The board heard public testimony from Sandra Bressler, California Medical Association, in support of continuation of the oral argument process if the board continues to review proposed decisions.

Julie D'Angelo Fellmeth, Center for Public Interest Law, spoke in support of elimination of required oral argument and conforming with the Administrative Procedure Act.

Donna Russell, California Citizen's for Health Freedom, spoke in support of reducing the size of the board to 19 and review of the oral argument process.

Following a discussion by the members, the motion carried by a vote of 12-4.

The meeting adjourned at 5:55 p.m.

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**Friday, February 2, 2007**

**Agenda Item 11      Call to Order/Roll Call**

Mr. Alexander called the meeting to order on February 2, 2007 at 11:15 a.m. A quorum was present and notice had been sent to interested parties.

**Members Present:**

Steve Alexander, President  
Cesar Aristeiguieta, M.D.  
James A. Bolton, Ph.D.  
Hedy Chang  
John Chin, M.D.  
Steven Corday, M.D.  
Shelton Duruisseau, Ph.D.  
Richard D. Fantozzi, M.D.  
Gary Gitnick, M.D.  
Laurie C. Gregg, M.D.  
Mitchell S. Karlan, M.D.  
Reginald Low, M.D.  
Mary Lynn Moran, M.D.  
Ronald H. Wender, M.D.  
Barbara Yaroslavsky  
Frank V. Zerunyan

**Members Absent:**

Dorene Dominguez  
Ronald L. Moy, M.D.  
Janet Salomonson, M.D.

**Agenda Item 4      President's Report**

**A.      Communication from Interested Parties**

Mr. Alexander disclosed the following meetings:

- California Medical Association on December 1, 2006 (with Dave Thornton)
- Sharp Hospital Physician Medical Group upcoming this month (with Dave Thornton)
- Establish a meeting with the new Attorney General (with Dave Thornton)

**B.      Executive Committee Actions and Report**

Mr. Alexander deferred discussion on this item under the Executive Director's Report.

**C.      Media and Outreach Communications**

Mr. Alexander reported on the following events:

He and Dr. Aristeiguieta attended a reception at the Department of Consumer Affairs to meet and greet the new legislative leadership in Sacramento.

D. Committee Appointments

Mr. Thornton reported at the request of the Executive Committee he contacted former board member, Bud Alpert, M.D., in an effort to recruit him as the board's nominee to the dental board for appointment to the oral and maxillofacial credentialing committee. Dr. Alpert respectfully declined the nomination.

Mr. Alexander noted the Access to Care Committee was re-established. The members include Mr. Alexander, Co-Chair, Ms. Chang, Dr. Gitnick, Co-Chair, Ms. Yaroslavsky, Mr. Zerunyan, and Dr. Duruisseau. Dr. Gitnick will be working with staff to determine the goals of the board.

Mr. Alexander appointed Dr. Aristeiguita and Mr. Zerunyan to the work-group established to review the oral argument process.

E. Board Treasurer

Dr. Laurie Gregg volunteered to serve as the board's treasurer.

**Agenda Item 5 Executive Director's Report**

A. Budget Overview and Staffing Update

Mr. Thornton reported the current board expenditures and revenue appear to be consistent with projections. He noted the board ended the last fiscal year 2005/2006 with a three month reserve.

Kathi Burns, a new manager in the Licensing Program was introduced. The licensing program still has one vacant manager position in the Licensing Program which they are actively trying to fill. The Diversion Program is fully staffed, including the two new case manager positions established as a result of SB 231.

Mr. Thornton reported the Executive Committee approved his proposal to move forward with re-establishing the medical director position at the meeting held on January 4, 2006.

Re-establishment of the Operation Safe Medicine Unit was disapproved by the Department of Finance.

The final filing date for the Executive Director position was January 31, 2007. The candidate list will be reduced to 5-6 applicants, to be interviewed by the Executive Committee in March. The finalist will be presented to the board for approval at the April meeting.

Mr. Thornton announced Renee Threadgill is the board's new Chief of Enforcement.

**B. Meeting Survey and Rating Sheet**

Mr. Thornton directed the members' attention to page 30 of their board packet for a list of the comments received regarding the content and format of the quarterly board meetings. The overall ratings appear to be satisfactory.

Mr. Alexander announced in his continuing effort to make the board meetings run more effective and efficient he would be modifying the meeting format for the April board meeting on an experimental basis.

**D. Public Service Announcements (PSA's)**

Mr. Thornton reported efforts are underway to find money to produce new PSAs. In the meantime, Ms. Cohen continues to do her best to conduct radio and television interviews to get the word out about the board.

**E. Board Audits and RFP/Contracts Update**

The Diversion Program is currently undergoing an audit as mandated by SB 231. A draft report of the audit will be available by the end of February 2007.

Mr. Thornton also provided an update on audits pending that affect the board as follows:

- Review of the public disclosure laws
- Peer Review Study
- Financial Audit as mandated by SB 231

**Agenda Item 7      Legislation**

Linda Whitney, Chief of Legislation explained it was too early in the calendar year to have any bills to review or take a position on. She reported a meeting with Senator Ridley-Thomas has been scheduled for February 5, 2007 to discuss proposals to extend vertical prosecution and the sunset date for the Diversion Program.

Ms. Whitney advised Assemblymember Eng has agreed to carry the bill regarding board restructuring. She explained the bill as introduced will only contain the consolidation of the Divisions to one board. The bill will be amended at the appropriate time to include a reduction in the size of the board and the delegation of authority to approve stipulated agreements for surrender of license and default proposed decisions.

Ms. Whitney reported the Department of Consumer Affairs will be sponsoring a bill to address a signing message the Governor had concerning AB 1796 with regard to the provision requiring the physician applicant to pass Part III of the USMLE within four attempts.

Mr. Robert Puleo presented the Department's proposed amendment and recommendation regarding AB 1796 for the board's consideration. The amendment proposed would include the

following language: *“provided however that an applicant who passes Part III of USMLE in more than four attempts and who meets the requirements of Section 2135.5 shall be eligible to be considered for licensure”*

Following a discussion by the members, a motion was made and seconded to adopt the proposed amendment to AB 1796 as presented. The motion carried.

Public testimony was heard from Steve Hartzell, Executive Officer for the Physical Therapy Board, regarding their intent to introduce proposed legislation this year to update the Physical Therapy Practice laws. He will keep the board and staff apprised of their proposals as the year progresses.

#### **Agenda Item 11      Reports from the Divisions/Committees**

##### **A.      Division of Licensing Midwifery Committee**

Dr. Fantozzi reported the following:

- The division adopted two proposed regulations that were presented for public hearing.
- The division approved the nominations from Stanford University School of Medicine; Loma Linda University School of Medicine; University of California, San Diego; University of California, San Francisco; and University of California, Los Angeles for the Special Faculty Permit Review Committee per AB 2260.
- Staff recommendations regarding the size, current membership, and term of appointments for the Midwifery Advisory Council (MAC) were approved. The MAC will consist of three licensed midwives, two public members, and one board member. Barbara Yaroslavsky was appointed as the board member representative.
- MAC meetings will be scheduled approximately one month after each Midwifery Committee meeting, with the first meeting expected to occur in March, 2007.
- Licensing staff will meet with OSHPD on February 15, 2007, regarding midwife annual report coding.
- Staff will establish reasonable response periods regarding international medical school re-evaluations.

##### **B.      Division of Medical Quality Diversion Committee**

Dr. Aristeiguieta reported the following:

- The division approved the appointment of two new DEC members and made four re-appointments.
- The division heard from the attorney general's office regarding review of the board's medical marijuana guidelines in light of the U.S. Supreme Court's recent decision.

Dr. Gregg provided the Diversion Committee report:



- The Division recommended adoption of language to establish the scope of responsibility of the Diversion Advisory Council.

Dr. Gregg requested the board's approval of the following proposed language:

The board shall create and appoint a Diversion Advisory Council (DAC);

The DAC shall make recommendations and provide clinical advice on matters specified by the board or a committee of the board;

The chair, elected by the DAC, or his or her designee, shall report back to the board or a committee of the board at its regularly scheduled meetings.

It was M/S/C to approve the proposed language for the Diversion Advisory Council as presented.

#### **Agenda Item 12      Federation of State Medical Boards**

Ms. Chang's report on the FSMB meeting in San Francisco included the following:

- Dr. Bolton will be narrating one of the programs.
- The Governor will not commit to being the keynote speaker more than six weeks prior to the event. If the Governor is unable to attend, Rosario Marin or the director of the Department may be able to speak.
- She is seeking a sponsor to pay for some of the events. However, if sponsorship is not found, she will need to enforce commitments previously made by members and solicit commitments from others.
- Liz Figueroa has indicated she is willing to make a presentation on working with lawmakers.

#### **Agenda Item 13      Workgroup on Cultural and Linguistic Continuing Medical Education Update**

Ms. Chang stated there was little to report. The ACCME did implement AB 1195. The next meeting is scheduled at the end of February 2007. The institute of medical quality is sponsoring a CME Essential Workshop in March 2007 in Southern California and in the fall in Northern California which she and Dr. Duruisseau will be attending.

#### **Agenda Item 14      Health Manpower Pilot Project Update**

Dr. Gregg provided an update on the proposed pilot project which would allow nurse practitioners, certified nurse midwives and physician assistants to perform early pregnancy terminations and handling of miscarriages. She and Ms. Whitney attended the second public meeting at OSHPD and represented the board with a neutral position. She will keep the board apprised of the outcome of OSHPD's decision and whether they approve or disapprove the project.

**Agenda Item 15      California Physician Corps Program Update**

Ms. Yaroslavsky reported they had a productive meeting with the new staff in place at OSHPD. They are moving forward with providing resources and data to meet projected goals. Efforts continue to raise money to put back into loan repayment and scholarship dollars for the program.

**Agenda Item 16      Agenda Items for April 2007 Meeting**

No items offered by members.

**Agenda Item 17      Public Comment**

Tara Kittle, healthcare consumer thanked the board for their actions the last two days and their service to healthcare consumers.

Faith Gibson, California College of Midwives informed the members of Frank Cuny's critical illness.

**Agenda Item 18      Adjournment**

There being no further business the meeting adjourned at 12:26 p.m.

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Steve Alexander, President

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Richard Fantozzi, M.D., Vice President

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David T. Thornton, Executive Director