



MEDICAL BOARD OF CALIFORNIA

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Agenda Item 3

DIVISION OF MEDICAL QUALITY

**Hilton Los Angeles Airport
Los Angeles, CA**

February 2, 2007

MINUTES

Agenda Item 1

A quorum was present and due notice having been granted to all interested parties, the meeting was called to order at 8:05 a.m. Members present included:

Members Present:

- Cesar A. Aristeiguieta, M.D., President
- Barbara Yaroslavsky, Vice President
- Stephen R. Corday, M.D., Secretary
- Steve Alexander
- John Chin, M.D.
- Shelton Duruisseau, Ph.D.
- Reginald L...
- Mary L...
- Ronald...
- Frank...

Members Absent:

- Dorene Deming
- Ronald L. Mey, M.D.
- Janet Salmonson, M.D.

Staff and Guests Present:

- David T. Thornton, Executive Director
- Renee Threadgill, Interim Chief of Enforcement
- Kurt Heppler, DCA Legal Counsel
- Don Chang, DCA Legal Counsel
- Carlos Ramirez, Senior Assistant Attorney General
- Thomas S. Lazar, Supervising Deputy Attorney General
- Candis Cohen, Public Information Officer

Linda Whitney, Chief of Legislation
Kevin Schunke, Regulation Coordinator
Kelly Nelson, Legislative Analyst
Paulette Romero, Associate Analyst
Janie Cordray, Research Program Manager
Frank Valine, Diversion Program Manager
Rhonda Baldo, Staff Services Analyst
Terri Dukes, Office Technician
Richard Prouty, Staff Services Manager
Valerie Moore, Associate Analyst
Teresa Schaeffer, Associate Analyst
Laura Sweet, Area Supervisor - L.A. Metro
Julie D'Angelo Fellmeth, Center for Public Interest Law
Mishaela Graves, Center for Public Interest Law
Sandra Bressler, California Medical Association
Brett Michelin, California Medical Association
James Hay, M.D.
Zennie Coughlin, Kaiser
Steve Hartzell
Sashia Kim, Consultant, Senate Office of Research
Judith Okun

Agenda Item 2 Approval of Orders

Approval of Orders Restoring License Following Completion of Probation

The Division reviewed and approved 12 Orders. Vote: 10-0

Approval of Orders Issuing Public Letters of Reprimand

The Division reviewed and approved 5 Orders. Vote 10-0

Approval of Orders for License Surrender During Probation/Administrative Action

There were no Orders submitted for review.

Agenda Item 3 Approval of Minutes

It was M/S (Aristeiguieta/Wender) to approve the Open Session minutes of the November 3, 2006 Division Meeting. Motion carried (10-0).

Agenda Item 4 Legislation and Pending Regulations

No report was given. Dr. Aristeiguieta stated the legislative report would be provided at the full board meeting.

Agenda Item 5 Diversion Program Report

Frank Valine, Diversion Program Administrator, gave a brief report of the Diversion Committee's meeting held on February 1, 2007.

It was M/S (Wender/Chin) to approve the appointments of two new DEC members. Motion carried unanimously.

It was M/S (Chin/Yaroslavsky) to approve the reappointments of four DEC members. Motion carried unanimously.

The audit of the Diversion Committee is ongoing and no major problems have been found.

The development of the Diversion Advisory Council was discussed. Dr. Wender pointed out there should be some safeguard regarding the advisory council to ensure the council understands and has a well-defined role as advisory and not control of the Diversion Committee. It was M/S (Wender/Alexander) to recommend adoption of the proposed legislation language for the Diversion Advisory Council to the Full board. Motion carried unanimously.

Agenda Item 6 Vertical Prosecution Update

Renee Threadgill, Chief of Enforcement, announced the Board and HQE have successfully developed a Vertical Prosecution manual.

Carlos Ramirez, Senior Assistant Attorney General, Thomas Lazar, Supervising Deputy Attorney General, and Laura Sweet, Area Supervisor, provided the details of the manual to the DMQ.

Julie D'Angelo Pellmeth, Center for Public Interest Law and former Enforcement Monitor, expressed concerns about the way Vertical Prosecution is being implemented and stated it is not entirely consistent with the statute and the intent. The transfer of the investigators to HQE did not occur and has resulted in HQE establishing a Lead Prosecutor to handle cases initially, instead of having the same prosecutor handle the case from complaint to closure. Ms. Fellmeth stated the transfer is to be reevaluated in the legislature this summer and, if adopted, it will enable the co-location of Medical Board investigators and HQE prosecutors working together at the same office facilities and will greatly facilitate Vertical Prosecution.

Carlos Ramirez, Senior Assistant Attorney General, reported on current efforts of HQE to fully implement Vertical Prosecution and eliminate the existing issues with co-location between the deputies and the investigators.

Mr. Alexander stated Mr. Thornton will meet with Attorney General Brown and discuss the importance of full statutory integration.

Agenda Item 6B Medical Expert Program – Survey

Ms. Threadgill reported a workgroup, which consists of representatives from HQE, MBC medical consultants and MBC Supervising Investigators, has been convened to improve the medical expert program and their recommendations are currently under review.

Agenda Item 6C Recruitment and Retention of Investigators

Ms. Threadgill stated meetings with DCA to establish a new investigator series classification are ongoing. MBC staff continues to gather data to support the new classification.

Agenda Item 6D Special Enforcement Priorities

Dave Thornton, Executive Director, discussed the proliferation of the medical marijuana dispensaries, the reports received from law enforcement agencies, current efforts to educate physicians about their roles in recommending medicinal marijuana to patients, and the action being considered against physicians who do not practice good medicine and recommend medicinal marijuana inappropriately. A review of SB1950 relative to over prescribing is being conducted.

Mr. Ramirez stated the AG's office is conducting a review of a recent Supreme Court's decision regarding medical marijuana and its impact on the Board's statement clarifying medical marijuana recommended by physicians.

Ms. Fellmeth added a case adopted by the DMQ in 2004 involving the discipline of a physician who recommended medical marijuana without following the rules of the Medical Practice Act is under review by an appellate court and, if upheld, can be used as a precedential decision.

It was M/S (Zerunyan/Yaroslavsky) for the DMQ to: 1) hear further information from the HQE regarding the current guidelines regarding the physician-recommendation of medical marijuana; 2) look at how the United States Supreme Court decision regarding medical marijuana may apply or may affect the model guidelines; and 3) hear further from staff regarding the consideration of the appellate decision as a precedent decision pending the outcome before moving on the issues of medical marijuana.

Agenda Item 7 Medical Errors Task Force Report

Dr. Aristeiguieta reported the Medical Errors Task Force will coordinate a meeting with the stakeholders of medicine in California, i.e., professional organizations, advocacy groups, general public, etc., to further identify medical errors and determine the best way to address this issue.

James Hay, M.D., Speaker of the House of CMA, stated CMA has a committee called Project Safe Care which has been looking at many aspects of medical errors for several years and they look forward to working with the Board on this issue.

Agenda Item 8 Agenda Items for April 2007 Division Meeting

- Medical Errors Task Force Update
- HQE's Review of the Board's Statement Regarding Physician-Recommended Medical Marijuana
- HQE's Review of the U.S. Supreme Court's Decision Regarding Medical Marijuana
- Proposed Precedential Decision Based on an Appellate Court's Ruling

Agenda Item 9 Public Comment

Judith Okun addressed the Board on three subjects and requested the following: 1) the Board develop a means for the public to air their grievances and to have further review when there is an unsatisfactory investigation undertaken by the AG's, investigators, or medical experts; 2) the Board's support of the no-cost Freedom of Information Act for L.A. County to allow public access to physicians' records; and 3) Letters of Reprimand be a part of the permanent record of all physicians.

Agenda Item 10 Adjournment

There being no further business, the meeting was adjourned at 9:45 a.m.

Cesar A. Aristeiguieta, M.D.
President