

**MEDICAL BOARD OF CALIFORNIA**

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**Agenda Item 6****Division of Licensing
Quarterly Meeting**

**Hilton Los Angeles Airport
Century A & B Room
5711 West Century Blvd.
Los Angeles, CA 90045-5672**

February 2, 2007**MINUTES**

The publicly noticed open session of the Division of Licensing (DOL) was called to order at 8:08 a.m. by Dr. Richard Fantozzi, President. Staff called the roll. A quorum was present.

Members Present:

Richard D. Fantozzi, M.D., President
Laurie Gregg, M.D., Vice President
Hedy Chang, Secretary
James A. Bolton, Ph.D.
Gary Gitnick, M.D.
Mitchell S. Karlan, M.D.

Staff Present:

Kathi Burns, Staff Services Manager I, Licensing Program
Candis Cohen, Public Information Officer
Janie Cordray, Research Specialist, Executive Office
Kurt Heppler, Staff Counsel, Department of Consumer Affairs
Scott Johnson, Business Services Assistant, Business Services Office
Kim Kirchmeyer, Deputy Director
Kelly Nelson, Analyst, Legislative/Regulatory Unit
Gary Qualset, Chief, Licensing Program
Regina Rao, Analyst, Business Services Office
Paulette Romero, Associate Analyst, Executive Office
Kevin Schunke, Regulation Coordinator, Legislative/Regulatory Unit
Anita Scuri, Supervising Senior Staff Counsel, Department of Consumer Affairs
Pam Thomas, Analyst, Licensing Program
Dave Thornton, Executive Director
Linda Whitney, Chief of Legislation
Curt Worden, Staff Services Manager I, Licensing Program

Members of the Audience:

Robert Puleo, Assistant Deputy Director, Legislative and Regulatory Review Division,
Department of Consumer Affairs (DCA)
Stewart Hsieh, J.D.
Faith Gibson, L.M., California College of Midwives
Karen Ehrlich, L.M., Birth Network of Santa Cruz County
Amy Day, University of San Francisco Medical School
Julie Zamoyski, University of California, Los Angeles, School of Medicine
Cecilia Melendres, Keck School of Medicine/University of Southern California
Carrie Sparrevohn, L.M., California Association of Midwives
Diane Holzer, L.M., Midwives Alliance of North America
Donna Russell, California Citizens for Health Freedom
Steve Hartzell, Executive Officer, Physical Therapy Board of California

The meeting then went into closed session, with open session reconvening at 9:40 a.m.

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

Agenda Item 2 Report on Actions Taken in Closed Session

Dr. Fantozzi reported the Application Review Committee met and reviewed three application files. Three applicants were approved to continue in the licensing process.

The Special Programs Committee had no business to conduct and did not convene.

Dr. Fantozzi reported the full DOL met in closed session and reviewed one Proposed Decision after Non-Adoption, two Proposed Decisions, and one Superior Court Ruling Granting Petition for Writ of Mandate.

Agenda Item 3 Approval of Minutes from the November 3, 2006 Meeting

It was M/S/C (Gitnick/Bolton) to approve the minutes of the November 3, 2006, meeting. The motion carried unanimously.

Agenda Item 4 President's Report

Dr. Fantozzi commended staff and reported on accomplishments of the Licensing Program over the past year, including: 1) the average number of calendar days from receipt to initial review of physician's and surgeon's licensing applications has been reduced from 127 to 32 days for U.S./Canadian medical school graduates and from 117 to 40 days for international medical school graduates since February 2006; 2) both the physician's and surgeon's and special

programs applications have been revised; 3) site visits to California medical schools with Section 2111, 2113, and 2168 Special Programs have been reinstated; and 4) midwifery standards of care regulations were adopted March 2006. He also outlined program changes as a result of legislative requirements per AB 1796 (Bermudez), AB 2260 (Negrete McLeod), SB 1232 (Runner) and SB 1638 (Figueroa).

Agenda Item 6 Legislation and Pending Regulations

Ms. Whitney presented the following:

A. 2007 Proposed Legislation

- ▶ **Resident Training License** - This proposal would require all physician's and surgeon's seeking postgraduate training in California who are not licensed to apply and obtain a "training license." Staff found obstacles in the law regarding how the current postgraduate training letters are processed and how individuals are registered that could lead to considerable opposition if proposed at this time. Staff recommended the DOL establish a working group with residency programs who have both US/Canadian and international medical school graduates to thoroughly review the proposal, work out the details, and develop a workable concept agreeable to all parties involved.

- ▶ **Repeal Specialty Board Review and Recognition Program** - This proposal would repeal the section of law wherein the Medical Board currently reviews applications from non-ABMS boards and makes a determination whether or not to grant recognition as having equivalent requirements to an ABMS board. Staff recommended not moving forward with this concept in the current political climate and amid significant opposition. Additionally, staff suggested either having further discussion and meetings regarding elimination of this program or adding this proposal to the Sunset Review in 2009 for DOL review.

- ▶ **License Application, Sexual Harassment or Misconduct Settlements, Judgments and Convictions Documentation** - This Board-sponsored proposal was submitted in 2006 as part of omnibus legislation, but was later withdrawn due to opposition from the California Dental Association (CDA). Staff has met with the CDA and will draft language to send to both the CDA and the California Medical Association for their review. If the issues are resolved, this proposal would go into an omnibus bill.

B. Regulations Update

Ms. Whitney referred to the "Status of Pending Regulations" chart in the board packet. She noted the two pending regulations regarding licensing special programs for foreign trained physicians would be heard at regulatory hearings to be held during this meeting. She explained the International Medical School - Prospective Recognition regulation was withdrawn from the OAL due to the potential for unintended consequences with the current language, including precluding some viable schools from being recognized and barring some viable medical school graduates from participating in training or getting licensed in California unless they met the requirements of Business and Professions (B&P) Code Section 2135.5. Staff recommended the DOL consider revised regulatory language governing prospective recognition of medical schools once the new issues have been discussed and bring this item back at the July 2007 meeting.

Staff was directed to establish a work group with Drs. Fantozzi and Gregg over the next two quarters to discuss issues raised and consider revised regulatory language.

It was M/S/C (Gregg/Fantozzi) to ratify the Executive Director's decision to withdraw the regulatory file on international medical schools - prospective recognition. The motion carried unanimously.

Agenda Item 5 REGULATIONS - PUBLIC HEARING

Dr. Richard Fantozzi, President of the DOL, called the hearing to order and announced the DOL would conduct a public hearing on two proposed regulations, as follows: 1) adopt Sections 1315.03 and 1326 and amend Section 1325.4 of Title 16 of the California Code of Regulations (CCR); and 2) adopt Section 1351.1 of Title 16 of the CCR as described in the notice published in the California Regulatory Notice Register and sent by mail to those on the board's mailing list. For the record, Dr. Fantozzi established the date and time of the hearing as February 2, 2007, at 10:00 a.m. He briefly described the regulatory proposal and gave instructions to potential speakers. He described the six legal review standards with which regulations must comply as well as the procedures that would be followed during the hearing.

- A. Special Programs Miscellaneous Regulations - AB 2260 (Negrete McLeod, Ch. 565, Stat. 2006) amended Sections 2111, 2113 and 2168-2168.5 of the B&P Code. In accordance with this legislation, this regulation packet adopts Sections 1315.03 and 1326, and amends Section 1325.4 of Title 16, CCR. This proposal implements, interprets, and makes specific this legislation, including: 1) approval of foreign trained physicians for research and training fellowships authorized by Section 2111; 2) registration of foreign trained physicians for faculty positions in accredited medical schools authorized by Section 2113; and 3) specification of the criteria for participants of the review committee responsible for advising the Division on the approval of faculty permits authorized by Section 2168.**

No oral testimony was submitted. No written testimony was submitted within the comment period. However, written testimony was sent to the board's office after the comment period by Jeff Hall, Legislative Director, Division of Health Affairs, University of California Office of the President, dated February 1, 2007. Ms. Scuri, Supervising Senior Staff Counsel, Department of Consumer Affairs, summarized the late submission from the University of California and members considered the comments made in that submission.

In the absence of any other written or oral testimony, Dr. Fantozzi closed the regulatory hearing to further testimony.

Discussion ensued regarding the suggested comments in the written testimony submission, including elimination of the term "adjunct faculty" in Section 1325.4 (a)(4). Consensus was reached and Ms. Scuri clarified the proposed amendments to the existing regulatory language.

It was M/S/C (Gregg/Chang) to proceed with the three changes indicated below, and delegate to the Executive Director the authority to adopt Title 16, CCR Code Sections 1315.03 and 1326 and to amend Title 16, CCR Code Section 1325.4, as proposed at the expiration of the fifteen day comment period if there are no adverse comments, with the following three modifications to Section 1325.4(a)(4): "A statement from the chairperson of the department or division where the applicant will be serving which indicates the clinical duties which will be assigned the applicant and which states that the applicant will be supervised by a licensed physician who is a faculty member not classified as clinical volunteer faculty ~~or as adjunct faculty~~ and who is on the medical staff of the medical school's medical center at which the applicant will be participating in clinical or research activities." The motion carried unanimously.

B. Special Programs Application and Renewal Fee - Existing regulations do not authorize the board to charge an application or renewal fee for special program applicants. AB 2260 (Negrete McLeod, Ch. 565, Stat. of 2006) amended sections 2111 and 2113 of the B&P Code, among others, and authorizes the board to charge for those fees.

Dr. Fantozzi stated this regulatory proposal addresses the assessment of application and renewal fees for approval to participate as Special Programs fellows and faculty in California accredited medical schools.

In the absence of any written or oral testimony, Dr. Fantozzi closed the regulatory hearing to further testimony.

It was M/S/C (Chang/Karlan) to adopt Section 1351.1 of Title 16, CCR, as proposed. The motion carried unanimously.

The regulatory hearing was adjourned.

Agenda Item 7 Establishment of Special Faculty Permit Review Committee

Mr. Qualset reported this would begin the process to establish the Special Faculty Permit Review Committee, to be comprised of two board members and one representative from each California medical school. The board members already appointed are Ms. Chang as the public member and Dr. Fantozzi as the physician member. Staff is recommending the DOL accept the nominations received from Stanford, Loma Linda, University of California, San Diego, University of California, San Francisco, and University of California, Los Angeles medical schools. He added the remaining three medical schools (University of California, Davis, University of California, Irvine, and University of Southern California) have indicated they will submit nominations for consideration at the April 27, 2007, meeting.

It was M/S/C to accept the nominations for the Special Faculty Permit Review Committee, as follows: Lawrence M. Shuer, M.D., Stanford University School of Medicine, Daniel Giang, M.D., Loma Linda University School of Medicine, Andrew L. Ries, M.D., University of California, San Diego, Neal H. Cohen, M.D., University of California, San Francisco, and Neal Parker, M.D., University of California, Los Angeles. The motion carried unanimously.

Agenda Item 8 Midwifery Committee Report

Dr. Fantozzi reported the Midwifery Committee (Committee) met on February 1, 2007, and recommended adoption of the staff recommendations regarding the size, term, and membership for the Midwifery Advisory Council (MAC). He indicated the first meeting is anticipated to occur in March 2007. He stated the Committee is requesting the DOL accept the staff recommendations for the MAC. Dr. Fantozzi informed the Division there will be a meeting with the Office of Statewide Health Planning and Development on February 15, 2007, regarding midwife annual report coding.

Diane Holzer, L.M., Midwives Alliance of North America, voiced concern for the interpretation of the definition of public members that included MDs who have gone on record stating their opposition to midwifery and homebirth in particular and excluded non-professional consumers who have a vested interest in midwifery issues. She added the midwifery model of care includes woman centered practice and that true public members, i.e., women they serve, should be involved in making decisions regarding this profession.

Dr. Fantozzi clarified the MAC has six members, but there is no intent to exclude consumers and other interested parties from attending the publicly held meetings and voicing their concerns.

The Division then went back into Closed Session, reconvening in Open Session reconvening at 11:00 a.m.

Karen Ehrlich, L.M., representing Birth Network of Santa Cruz County, expressed her gratitude in being nominated as a member of the MAC and will work in the spirit of cooperation; however,

she wanted to go on record as having mixed feelings regarding the configuration of the MAC. She indicated midwives believe they are being regulated without representation, there was no midwifery input into the composition of the MAC, and the public members should be consumers of midwifery services and not MDs.

Faith Gibson, L.M., California College of Midwives, expressed the same reservations as previous speakers regarding the lack of consumer members as public members and hoped the MAC itself can rectify this problem if it becomes an ongoing issue. She submitted letters into the record from other licensed midwives regarding MAC appointments and issues for discussion.

Donna Russell, California Citizens for Health Freedom, went on the record as holding the same concerns as the previous two speakers.

Dr. Gregg recommended going back to the drawing board with the MAC to obtain more pre-meeting consensus building. She indicated she had wanted to serve on the MAC as it is now structured but stepped down so a public board member could be appointed.

It was M/S/C to accept the Committee's recommendations as to size, term, and membership for the MAC. The motion carried with five in favor, one abstain (Gregg).

Agenda Item 9 Update on International Medical School Re-evaluations

Mr. Qualset stated that, per member request, copies of the Self-Assessment Report were provided to DOL members after minor edits had been made by staff. He indicated the report will be mailed out this month to international medical schools scheduled for re-evaluations in the coming years, with the schools given an estimated eighteen month response period to complete and return the report. He added the reports will then be reviewed by staff and expert consultants to determine if site visits are needed.

Staff was directed to confer with Division medical consultants to establish reasonable response periods regarding international medical school re-evaluations.

Agenda Item 10 Division Chief's Report

Mr. Qualset highlighted the application processing times for US/Canadian and International medical school graduates, the number of licenses received and issued, and the volume of calls handled by the Consumer Information Unit from his quarterly statistics report, applauding staff efforts. He reported there was now a link on the Medical Board's website to the *ACOG Practice Bulletin Number 54, July 2004* article regarding "Vaginal Birth After Previous Cesarean Delivery," required to be provided to patients per Section 1379.19(b)(1) of the CCR.

Agenda Item 11 Agenda Items for April 2007 Meeting

There was no discussion on agenda items for the April 2007 meeting.

Agenda Item 12 Public Comment on Items Not on the Agenda

Carrie Sparrevohn, L.M., California Association of Midwives, suggested, per Section 2509, having the DOL direct the MAC to evaluate the feasibility of including a consumer on the MAC. She also recommended the MAC address the issue of physician supervision regulations per 2507(f), identified by California licensed midwives as their number one issue and imperative for consumers that it be addressed.

Agenda Item 13 Adjournment

Dr. Fantozzi adjourned the meeting at 11:20 a.m.

Richard D. Fantozzi, M.D., President

Hedy Chang, Secretary