



STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR

MEDICAL BOARD OF CALIFORNIA – Executive Office
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**Sacramento Convention Center
1400 "J" Street
Sacramento, CA 95814**

April 26, 27, 2007

MINUTES

Agenda Item 1 Call to Order/Roll Call

Mr. Alexander called the meeting to order on April 26, 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
Shelton Duruisseau, Ph.D.
Richard D. Fantozzi, M.D.
Gary Gitnick, M.D.
Laurie C. Gregg, M.D.
Reginald Low, M.D.
Mary Lynn Moran, M.D.
Ronald L. Moy, M.D.
Janet Salomonson, M.D.
Ronald H. Wender, M.D.
Barbara Yaroslavsky
Frank V. Zerunyan

Members Absent:

Steven Corday, M.D.
John Chin, M.D.
Mitchell S. Karlan, M.D.
Dorene Dominguez

Staff Present:

David T. Thornton, Executive Director
Kimberly Kirchmeyer, Deputy Director
Kathi Burns, Manager, Licensing Unit
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
James Hay, M.D., California Medical Association
Saskia Kim, Senate Office of Research
Brett Michelin, California Medical Association
Carlos Ramirez, Office of the Attorney General

Agenda Item 2 Approval of Minutes from February 1 - 2, 2007 Meeting

It was M/S/C to approve the minutes from the February 1 - 2, 2007 meeting.

In order to remain consistent with the record, the agenda items presented in these minutes are listed in the order discussed at the April 26 - 27, 2007 meeting.

Agenda Item 3 President's Report

A. Communication from Interested Parties

Mr. Alexander disclosed he met with William Norcross, M.D., UCSD Medical School, to discuss his upcoming speaking engagement.

Staff is working on scheduling a meeting with the Attorney General's Office to discuss matters of mutual interest.

Mr. Alexander asked members to copy him, or in the future Dr. Fantozzi, on any communications with interested parties, and also alert the Executive Director.

B. Executive Committee Actions and Report

The Committee interviewed candidates for the Executive Director position at a meeting held on March 29, 2007 in Los Angeles, however, no action was taken or recommended at this time.

The issue of retention of enforcement staff remains a top priority. Mr. Thornton will provide further information on this issue under his report.

The Committee proposed Board members be more active in legislation in the future. Ms. Whitney will present the proposal to the full Board for review.

C. Media and Outreach Communications

The new Director of the Department of Consumer Affairs, Carrie Lopez, was invited to the meeting today to share her thoughts and perspectives with the Board.

D. Committee Appointments

Mr. Alexander indicated the newly appointed Board members may be receiving a letter from the Senate Rules Committee regarding their confirmation. The members were asked to send a copy of their response to Mr. Thornton for the Board's file.

It was announced the terms of Drs. Bolton, Corday, Gregg, Karlan and Moy and Ms. Yaroslavsky are expiring. If not reappointed, this would be their last meeting.

Agenda Item 4 Executive Director's Report

A. Budget Overview and Staffing Update

Mr. Thornton reported current board expenditures and revenue appear to be consistent with projections.

Stacie Berumen, a new manager in the Licensing Program, and Michael McCormick, a new analyst to oversee the midwifery program, were introduced.

Lynda Swenson, Area Supervisor for the Probation Unit, and Daryl Walker, Supervising Investigator II for Northern California area, were introduced. It was announced three new supervisors have been hired for the Northern California area.

B. Meeting Survey and Rating Sheet

The Board meeting evaluation form has been revised to incorporate the new meeting format. Members were asked to complete the form and provide any comments on any changes they would like to see made

to the meeting format or topics. A list of all the committees was distributed and members were asked to select the committees they are interested in joining.

Mr. Thornton announced the July 26, 27, 2007 quarterly Board meeting will be held at the Embassy Suites in South San Francisco.

C. Board Audits and RFP/Contracts

The Bureau of State Audits (BSA) has completed its review of the Diversion Program. The release date for the report is June 12, 2007. The BSA will overnight a copy of the report to all the members on June 11, 2007.

Ms. Kirchmeyer provided an update on the following board audits and contracts:

- The contract for the peer review study will be in place by July 1, 2007. The due date for completion of the study is July 31, 2008.
- The Fiscal audit will be performed by the BSA and should begin July 1, 2007.
- Staff is currently requesting a budget change proposal for funding to perform the full Board audit.
- The California Research Bureau has begun the review of the Board's public disclosure information and the laws outlining public disclosure.
- Staff is meeting with two individuals from the UC system on May 11, 2007, and will be working in conjunction with them to perform the medical malpractice study for funding of malpractice insurance for volunteer physicians.
- Staff is meeting with the Board of Registered Nurses (BRN) on May 7, 2007 to discuss the laser study.

D. Program Updates

Mr. Thornton reported staff has been working with the Department and is close to obtaining approval for reinstatement of the Medical Director position.

Mr. Thornton announced the first draft of the Vertical Enforcement Report will be mailed to the members for their review within the next few days. The members were urged to return their written comments to Ms. Threadgill by May 15, 2007.

Ms. Threadgill, Chief of Enforcement, was asked to provide some highlights of the report. She explained the report covers a selected timeframe in fiscal year 2003/2004 and calendar year 2006 as baselines, and includes a historic review of the number of changes already implemented, as well as some of the challenges and successes encountered during the period of the pilot.

E. Report on Recruitment and Retention of Investigators

Mr. Thornton summarized the efforts the Board has undertaken to address the recruitment and retention of Medical Board investigative staff. As reported in the past, the turnover of investigative personnel is a chronic problem the Medical Board has been trying to address dating back to 1990. He explained despite the legislative intent language added to SB 2375, which was recorded to say the pay scales for Medical Board investigators could be increased to within at least 5% of the pay scales for Special Agents of the Department of Justice, the pay scales were not increased to the level sought. This is due to the fact that Medical Board investigators keep getting tied to the Department of Consumer Affairs. It is his opinion that the investigators should be transferred to the Department of Justice.

The Board heard public comment from Julie D' Angelo Fellmeth, Center for Public Interest Law and former Medical Board Enforcement Monitor, in support of the transfer of investigators to the Department of Justice. She stated its been 18 years since this problem was addressed and its time it was resolved or at least meaningfully addressed.

Mr. Alexander took this opportunity to introduce the new Director of DCA, Carrie Lopez, and congratulated in her new position. Ms. Lopez thanked the members for their service and stated she looked forward to working with the board on resolving the retention issue.

Agenda Item 5 Legislation

The Board took the following positions on legislation:

AB 253 (Eng)	Restructuring of the Medical Board of California - Sponsor/Support
AB 329 (Nakanishi)	Chronic Diseases: Telemedicine - Sponsor/Support
AB 555 (Nakanishi)	Electronic Medical Records - Support concept
AB 1025 (Bass)	Professions: Denial of Licensure - Neutral w/ amends
AB 1073 (Nava)	Work. Comp.: CA Licensed Physicians on Utilization Review - Support
AB 1154 (Leno)	Diabetes: Pilot Program - Watch and Assist
AB 1224 (Hernandez)	Telemedicine: Optometrists - Support
AB 1276 (Karnette)	Prescription Containers: Labels with Purpose - Support
AB 1436 (Hernandez)	Scope of Practice: NPs and PA's - Oppose
AB 1444 (Emmerson)	Physical Therapists: Scope of Practice - Oppose
AB 1643 (Niello)	Supervision of NPs: More than Four - Oppose unless Amended
SB 102 (Migden)	Blood Transfusions: Brochure - Support
SB 472 (Corbett)	Prescription Drugs: Labeling Requirements and Panel - Support
SB 478 (Hollingsworth)	Physicians: Loan Repayment - Watch
SB 620 (Correa)	Anesthesia Permit for Physicians in Dental Offices - Support
SB 761 (Ridley-Thomas)	Diversion and Vertical Prosecution - Sponsor/Support
SB 764 (Migden)	MBC Reporting Licensee Information to OSHPD- Support w/ Conditions
SB 767 (Ridley-Thomas)	Drug Overdose Treatment: Liability - Neutral

SB 809 (Ashburn)	Expanding the Scope of Practice for NPs - Oppose
SB 907 (Calderon)	Compensation for Referrals - Oppose
SB 993 (Aanestad)	Psychologists: Scope of Practice: Prescribing - Oppose
SB 1048 (Comm. B,P&ED)	Healing Arts: Omnibus - Support MBC Provisions

The Board heard public comment from Steve Hartzell, Executive Officer, Physical Therapy Board of California, regarding AB 1444. Mr. Hartzell explained this is a two-year bill and urged the members to take a watch position on this bill at this time.

The Board heard public comment from Sandra Bressler and Dr. Jim Hay, California Medical Association, in opposition to the transfer of the investigators to the Attorney General's Office.

The last item Ms. Whitney discussed was the Executive Committee's request that staff develop a process in which Board members could be more proactive in the legislative process. Ms. Whitney directed the members' attention a copy of a memo provided in their board packet dated April 19, 2007 containing three options staff had developed.

Ms. Whitney recommended Option #3 - Establish two-person "expert committees" to work on subject matter issues with the legislative staff and provide advice to the Board. The members could meet with lawmakers and/or their staff at their district offices. It was also suggested that supervisors from the Board's district offices be assigned to go to legislative district offices to meet with staff and provide them with the information packet.

Dr. Gitnick thanked Ms. Whitney for being so responsive, however, he thought more should be done. He suggested the Board formulate their own legislative agendas or initiatives and proactively pursue those concerns in the interest of consumer protection. He proposed the President of the Board be charged with identifying agenda items that are important to the Board with regard to consumer protection and assign members to proactively meet with lawmakers in Sacramento to make it happen.

Mr. Alexander requested this issue be brought back to the Executive Committee for further discussion and consideration of the proposals presented.

Agenda Item 6 Federation of State Medical Boards

A. Update on 2007 Annual Meeting

Ms. Chang's report included the following:

- Dr. Bolton will be moderating a panel at the FSMB annual meeting to be held May 3 – 5, 2007 in San Francisco.
- Mr. Thornton and Mr. Alexander will be participating in a break-out presentation at this meeting.
- Ms. Chang thanked the members for their support in helping host a California reception at this meeting.

Agenda Item 7 Workgroup on Cultural and Linguistic Continuing Medical Education

Ms. Chang reported she attended a Continuing Medical Education (CME) provider workshop in April which was very informative. She will be meeting with CMA and IMQ on May 4, 2007, and will be attending another provider workshop on May 11. She reported the workgroup will hold a meeting in June.

Agenda Item 8 Strategic Planning Update

Ms. Kirchmeyer indicated the calendar for the Strategic Planning process needed to be changed due to the need to identify the top five priorities. Staff will meeting with Drs. Moy and Gitnick to develop the first draft plan and take it to the Executive Committee. Staff will be meeting with the facilitator, Mr. Michaelson to put together the performance measures and action plan for review by the members at the July board meeting. The final approval of the plan will be at the November Board meeting.

Agenda Item 9 Public Comment on Items not on the Agenda

There was no public comment. The meeting adjourned at 6:00 p.m.

Friday, April 27, 2007

Agenda Item 10 Call to Order/Roll Call

Mr. Alexander called the meeting to order on April 27, 2007 at 9:35 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
- Shelton Duruisseau, Ph.D.
- Richard D. Fantozzi, M.D.
- Gary Gitnick, M.D.
- Laurie C. Gregg, M.D.
- Reginald Low, M.D.
- Mary Lynn Moran, M.D.
- Ronald L. Moy, M.D.
- Janet Salomonson, M.D.

Ronald H. Wender, M.D.
Barbara Yaroslavsky
Frank V. Zerunyan

Members Absent:

Steven Corday, M.D.
John Chin, M.D.
Mitchell S. Karlan, M.D.
Dorene Dominguez

Agenda Item 11 Reports from the Divisions/Committees

Dr. Fantozzi reported the following:

- The Division of Licensing (DOL) deferred the Physician Assistant Committee (PAC) request for approval of a legislative proposal concerning the submission of regulations to a future meeting. Staff was directed to work with CMA to clarify the PAC and DOL responsibilities.
- The DOL deferred the PAC's request for approval of amended regulations and the setting of a hearing on "Delegation of Services Agreement". Staff was directed work with CMA to clarify the issue and set up a workgroup.
- The DOL appointed three members to the Special Faculty Permit Review Committee.
- The DOL appointed Dorene Dominguez to the Cultural and Linguistic Competency Workgroup.
- The Division held elections of officers for 2007/2008. The following were elected by acclamation:
President – Laurie C. Gregg, M.D
Vice President – Hedy Chang
Secretary – Gary Gitnick, M.D.
- The Midwifery Advisory Council met and elected Faith Gibson, Chair and Dr. Ruth Haskins, Vice Chair. They are working on developing reporting data and statistics regarding the midwifery community.

Dr. Gregg reported the following:

- The Diversion Committee approved appointment of one new DEC member.
- The Diversion Committee appointed a seven person Diversion Advisory Council (DAC).
- The Diversion Committee referred the development and approval of guidelines for determining when a competency examination should be ordered for participants to the DAC.
- The Diversion Committee referred the establishment of consistent criteria for termination from the Diversion Program to the DAC
- The Diversion Committee referred the establishment of a mechanism for termination and revocation of license for continuously repeating participants to the DAC.

Dr. Aristeiguieta reported the following:

- The Division of Medical Quality (DMQ) approved appointment of a new DEC member, and seven Diversion Advisory Council members.
- The DMQ directed staff to find solutions to bring investigators and the attorney general's staff closer together to a workable vertical enforcement model.
- The Division held election of officers for 2007/2008 and approved the retention of the current leadership of the Division for continuity as follows:
President - Cesar Aristeiguieta, M.D.
Vice President - Barbara Yaroslavsky
Secretary - Stephen Corday, M.D.
- The DMQ directed staff to look at the financial impact of increasing the expert reviewer's compensation and solicit additional applications for recruitment of expert reviewers.

Agenda Item 12 Health Manpower Pilot Project

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 termination and management of early pregnancy failures. She reported the proposed project remains with OSHPD and is pending approval or disapproval.

Agenda Item 13 California Physician Corps Program Update

Dr. Fantozzi reported there is currently \$980,000 in the budget for awardees. Dr. Fantozzi indicated he is hopeful, with the support of the CMA, to be successful in finding financial funding to continue the program. If future funding is not found, the program could cease to exist.

Ms. Yaroslavsky reported she will be meeting with the Health Professions Education Foundation (HPEF) and members of OSHPD to review qualified applicants for the program. She thanked board staff for their continued support of this worthy program in providing improved access to healthcare in underserved areas in exchange for repayment of a physician's educational loans.

Agenda Item 14 Access to Care Committee Update

Dr. Gitnick reported the Committee met in Sacramento on April 26, 2007 and worked on developing its mission statement and heard a report from Dr. Fantozzi on the following: the Governor's Task Force on Diabetes Prevention and Management, Physician Workforce Roundtable, Best Practices Model, and the Telemedicine Program.

Agenda Item 15 Agenda Items for the July 2007 Meeting

Dr. Gregg suggested an update on the activities of the Physician Assistant Committee be a standing agenda item for the full Board.

Agenda Item 16 Election of Officers

Mr. Alexander asked for nominations for the Office of President. Dr. Gitnick nominated Richard Fantozzi, M.D. Dr. Fantozzi was elected President of the Medical Board by acclamation.

Mr. Alexander asked for nominations for the Office of Vice President. Dr. Fantozzi nominated Dr. Ron Moy. There being no other nominations, Dr. Moy was elected Vice President by acclamation.

Mr. Alexander asked for nomination for the Office of Secretary. Dr. Wender nominated Dr. Laurie Gregg. There being no other nominations, Dr. Gregg was elected Secretary by acclamation.

Agenda Item 17 Public Comment on Items Not on the Agenda

Jim Hay, M.D, California Medical Association, spoke in support of the continuing operation of the California Physician Corps Program.

Mr. Alexander offered a closing speech and thanked staff and the members for their confidence in his leadership during his presidency. He stated there had been five planned goals of his presidency:

- Raise awareness of MBC
- Look at the Board's restructuring
- Provoke a dialogue on medical errors
- Initiate meeting efficiencies
- Complete implementation of new enforcement model

In addition, there were three unplanned:

- Strategic Planning
- Access to care
- Dave's retirement and selection of a new Executive Director

He stated the Board had faced its challenges well, in restructuring, creating efficiencies, working on staff retention, initiating strategic planning. It is his hope that the Board will continue in team building with new members, and looks forward to the passage of AB 253 and its implementation.

He thanked Sandra Bressler and Julie D'Angelo Fellmeth for challenging him through his term, and for their candor and counsel.

He congratulated Dr. Fantozzi, and thanked him for his friendship and support during his presidency.

Dr. Fantozzi offered an acceptance speech and presented his agenda for the upcoming year. He stated California has a chance to be a leader in healthcare policy, and he would hope to lead the group in that role.

He announced the following committee assignments:

Executive Committee: The membership includes the president, VP, secretary, division presidents, and immediate past president of the Board. In addition, he asked Ms. Yaroslavsky to create an outreach calendar for the members.

Diversion Committee: Dr. Gregg, chair.

Physician Recognition Committee: Dr. Moran, chair

Public Education: Mr. Alexander, chair

Strategic Planning: Drs. Moy and Gitnick, co-chairs

Midwifery Committee: Ms. Chang

Access to Care: Dr. Gitnick and Mr. Alexander, co-chair

Special Programs: Dr. Wender, chair

International Medical Schools: Dr. Salomonson, chair

Executive Director Search: Dr. Wender to work with Dr. Fantozzi

Medical Errors: Dr. Aristeiguieta, chair

Cultural & Linguistic Competency: Ms. Chang, chair

In addition, he stated he would like the Board to help physicians that have no access to well-being committees. He assigned Shelton Duruisseau to work with CMA to develop an initiative to help these physicians.

Mr. Thornton reminded members to complete their meeting surveys and return them to Ms. Kirchmeyer.

Agenda Item 18 Adjournment

There being no further business the meeting adjourned at 10:30 a.m.

Steve Alexander, President

Richard Fantozzi, M.D., Vice President

David T. Thornton, Executive Director