



**Division of Licensing
Quarterly Meeting**

**Sacramento Convention Center
Room 307
1400 J Street
Sacramento, CA 95814**

April 26, 2007

MINUTES

Agenda Item 1 Call to Order/Roll Call

Dr. Fantozzi called the meeting to order on April 26, 2007 at 2:30 p.m. A quorum was present and notice had been sent to interested parties.

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.

Members Absent:

Mitchell S. Karlan, M.D.

Staff Present:

Kathi Burns, Staff Services Manager I, Licensing Program
Kurt Heppler, Staff Counsel, Department of Consumer Affairs
Scott Johnson, Business Services Assistant, Business Services Office
Kelly Nelson, Analyst, Legislative/Regulatory Unit
Gary Qualset, Chief, Licensing Program
Anita Scuri, Supervising Senior Staff Counsel, Department of Consumer Affairs
Pam Thomas, Analyst, Licensing Program
Billie Baldo, MST, Administrative Assistant, Licensing Program
Michael McCormick, AGPA, Licensing Program
Curt Worden, Staff Services Manager I, Licensing Program
Stacie Berumen, Staff Services Manager I, Licensing Program
Patricia Park, AGPA, Licensing Program

Members of the Audience:

Barbara Yaroslavsky, Board Member, Division of Medical Quality

The meeting then went into closed session at 2:35 p.m., with open session reconvening at 2:55 p.m.

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 and 27, 2007, meetings.

Agenda Item 2 Report on Actions Taken in Closed Session

Dr. Fantozzi reported the Application Review Committee met and reviewed five application files. Five 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, and one Proposed Decision after Non-Adoption.

The Application Review Committee approved a request to deem licensee's residency training equivalent to board certification to become a qualified medical examiner.

Agenda Item 3 Public Comment on Items Not on the Agenda

Mr. Qualset introduced the new Staff Services Manager I, Stacie Berumen, the new Associate Analyst, Michael McCormick and the new Administrative Assistant to the Division of Licensing, Billie Baldo.

Agenda Item 4 Adjournment

The meeting adjourned at 2:59 p.m.

Agenda Item 5 Call to Order/Roll Call

Dr. Fantozzi called the meeting to order on April 27, 2007 at 8:03 a.m. A quorum was present and notice had been sent to interested parties.

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.

Members Absent:

Mitchell S. Karlan, M.D.

Staff Present:

Dave Thornton, Executive Director, Executive Office
Kim Kirchmeyer, Deputy Director, Executive Office
Gary Qualset, Chief, Licensing Program
Kathi Burns, Staff Services Manager I, Licensing Program
Dino Perini, Business Services Assistant, Business Services Office
Anita Scuri, Supervising Senior Staff Counsel, Department of Consumer Affairs
Pam Thomas, Analyst, Licensing Program
Billie Baldo, MST, Administrative Assistant, Licensing Program
Michael McCormick, AGPA, Licensing Program
Curt Worden, Staff Services Manager I, Licensing Program
Stacie Berumen, Staff Services Manager I, Licensing Program
Cindi Oseto, Associate Governmental Program Analyst, Licensing Program
Linda Whitney, Chief of Legislation, Legislative/Regulatory Unit
Kevin Schunke, Staff Services Manager I, Legislative/Regulatory Unit
Teri Hunley, Associate Governmental Program Analyst, Business Services Office
Bobbie McBride, Staff Services Analyst, Licensing

Members of the Audience:

Elberta Portman, Executive Officer, Physician Assistant Committee
Jim Hay, M.D., CMA
Sandra Bressler, CMA
Carrie Sparrevohn, CAM

Agenda Item 6 Approval of Minutes from the February 2, 2007 Meeting

It was M/S/C (Gitnick/Gregg) to approve the minutes of the February 2, 2007, meeting.

11. Agenda Item 7 President's Report

Dr. Fantozzi congratulated Mr. Qualset for organizing the Division of Licensing (DOL). He also thanked Mr. Worden and staff for an excellent job over the past year. Dr. Fantozzi thanked Dr. Bolton for his term and service on the board.

Agenda Item 8 Legislation and Regulation Update

Ms. Whitney presented the following:

A. 2007 Legislation

Ms. Whitney did not make an oral presentation, instead referred the members to the Legislative Binder.

B. Status of Regulatory Actions

No regulations to discuss.

C. Discussion of Resident Training License Workgroup

Ms. Whitney gave a brief background on the proposal for a Resident Training License. It was suggested that we develop a workgroup to discuss thoroughly how it is seen as working and to be sure when the package is brought forward it is ready for legislation.

Dr. Fantozzi suggested meeting with resident program managers and medical school representatives in the state to see how their processes work and to get their input and reaction on the idea and concept.

Dr. Gitnick asked about the basis for this. Ms. Whitney stated that International Medical Graduates currently must get a Postgraduate Training Authorization Letter (PTAL) while U.S. and Canadian graduates simply register with the Division. Mr. Qualset advised the board that with U.S. and Canadian graduates there is no background check or preliminary review of eligibility. This program will benefit both the Medical Board and the public because applicants with criminal history background problems could be eliminated and screened out early. It was suggested to let the university system know what the Board does with the PTAL, what information the Board has and what things would be important to the Board so the medical schools could do this rather than the Board.

There is concern that a Resident Training License may cause a problem near the end for licensure, however, it may actually speed up the process of licensure for second year applicants. Another concern brought forward was that while an individual was a PTAL registrant the Board is able to get subsequent information indicating that they were arrested and/or convicted while holding a PTAL. However, the Board does not have any authorization to do anything at that point except to allow them to continue to go through postgraduate training because the Board does not have any authorization to withdraw a PTAL.

This will be a long-term project that will be put into the Division's workplan. Dr. Gregg suggested to conduct a written survey of the universities. Staff was directed to do more

research and work with the academic centers at the Dean level to see if they would like to come together collectively.

Agenda Item 9 Physician Assistant Committee

A. Proposed Legislation

B. Request to Set Regulatory Hearing for Proposed Amendment to Title 16 Section 1399.540 of the California Code of Regulations Regarding Delegation of Services Agreement

Elberta Portman, Executive Officer of the Physician Assistant Committee (PAC), reported that the PAC recently took action to amend two PAC regulations, held hearings, received no opposition, and then submitted the regulatory package to the Office of Administrative Law (OAL) for review and approval. OAL determined that the PAC lacked authority to adopt either of the regulations because they impacted the scope of practice of a physician assistant and that the authority to amend the regulations lies with the Division of Licensing (DOL) of the Medical Board of California. The regulations were related to drug orders carried out by a physician assistant being in compliance with statute and to require a written and signed Delegation of Services Agreement be entered into between a supervising physician and a physician assistant.

Ms. Portman provided information to the DOL pertaining to the Delegation of Services Agreement regulation change. Concerns were raised by Sandra Bressler, representing the CMA, indicating that CMA does not believe that PAC should regulate physicians, and Dr. Hay, CMA, stated there is confusion as to which supervising physicians should sign Delegation of Services Agreements with which physician assistants in a medical practice office that has multiple physicians and physician assistants. After discussion between DOL members, the DOL requested staff set up a workgroup with PAC staff, DOL staff, and the CMA to clarify language and make a recommendation on who should sign the Delegation of Services Agreements. The revised language could be brought to the July board meeting and set for hearing at the November board meeting.

Ms. Portman also requested the DOL consider giving more regulatory authority to the PAC to adopt, amend and repeal regulations. The PAC would be responsible for the rulemaking process while DOL retains final regulatory approval. The DOL deferred this issue to the July board meeting.

Dr. Fantozzi expressed concern that there is a lack of feedback from the PAC. Dr. Gitinick suggested that a status update from the PAC be added as a regular recurring line item on the DOL agenda.

**Agenda Item 10 Establishment of Special Faculty Permit Review Committee
(Business and Professions Code Section 2168.1(c))**

It was M/S/C (Gregg/Fantozzi) to accept the nominations for the Special Faculty Permit Review Committee, as follows: James Nuovo, M.D., University of California, Davis; Jeremiah Tilles, M.D., University of California, Irvine; and Lawrence Opas, M.D., Keck School of Medicine at the University of Southern California.

Mr. Qualset provided a summary of action to date that has occurred to implement the recent statutory changes to the special program authorized by B&P §2168. A regulation package has been submitted to the Department of Consumer Affairs (DCA) for review. Once approved, the package will go to the OAL for final adoption. This is anticipated to occur mid June.

The membership of the committee has been established. A meeting was requested to occur in early May to move forward with setting up meeting protocols, application formats, criteria for review, and documentation to be provided to committee members for their consideration in making a recommendation. The next meeting would be scheduled in July when applications for candidates will be considered and reviewed by the Committee for a recommendation to be presented to the DOL for review and action.

**Agenda Item 11 Cultural and Linguistic Physician Competency Program
Workgroup Appointments (Business and Professions Code
Section 2198(h))**

M/S/C (Gregg/Chang) to approve Dorene Dominguez as a workgroup representative.

Mr. Qualset reported the workgroup has met a few times to discuss progress on implementing the statutory requirements related to cultural and linguistic competency (CLC) of physicians. Staff will be meeting with CMA's Institute of Medical Quality and will be attending a conference to learn more about continuing medical education providers and CLC. Staff plans to hold a meeting in mid June on the topic. Ms. Chang suggested having a physician member on the workgroup. Dr. Fantozzi indicated that once it has been verified where the Board is on appointments, there may then be opportunities to add a physician member.

Agenda Item 12 Midwifery Committee Report

A. Midwifery Advisory Council Report

At the Midwifery Committee meeting, it was reported that Faith Gibson, L. M. was elected Chair and Dr. Ruth Haskins was elected Vice Chair of the Midwifery Advisory Council (MAC), which held its first meeting on March 9th. An update was provided by staff on the development of a coding system and form for the annual reporting process. The MAC held its second meeting on April 17th. The next meeting is scheduled for June 12th. It was requested that the workload statistics be provided on a regular basis at future meetings, and that re-training programs of licensed midwives be added to the MAC agenda.

Agenda Item 13 Division Chief's Report

Mr. Qualset introduced the new Staff Services Manager I, Stacie Berumen and the new Associate Analyst, Michael McCormick. The DOL has approximately forty employees and three vacancies that should be filled soon. Outpatient Surgery Settings Accreditation Agencies have to be approved for renewal every three years and are coming due April 30th. The four current agencies have all been approved in the past and staff intends to approve them all again. The DOL staff has had two presentations at medical schools in regards to the licensing process and programs for medical students. Staff will be at three schools in July and would like to expand to visit all medical schools. Staff was directed to email DOL board members in regards to licensing fairs so they could attend, schedule permitting. A handout was provided with program status information. Staff was commended for a great job in regards to time of initial review of applications. Staff are in "crunch time" for the June 30th deadline. The Call Center received nearly one thousand more calls compared to last quarter. Mr. Thornton advised the board that headquarters will be moving in November 2007 and will then have a combined consumer information and complaint center that will answer calls to improve efficiency. Staff was directed to provide Licensing workload statistics, at future full board meetings.

Mr. Thornton was asked to comment on the status of the lawsuit in regards to the prohibition in law for co-locations of Registered Dispensing Opticians (RDO) with optometrists. Complaints are typically not received by the Board from consumers, but rather from competitors. An initial ruling on this case determined that these statutes are unconstitutional and are in violation of the Commerce Clause of the U.S. Constitution. At the present time a settlement was made that the Board would not enforce these laws while an appeal was pending, and that the Board would issue licenses that were held up for the last three years pending the lawsuit.

Agenda Item 14 Election of Officers

- ▶ M/S/C (Gitnick/Chang) to elect Dr. Laurie Gregg for President by acclimation.

- ▶ M/S/C (Gregg/Gitnick) to elect Hedy Chang for Vice President by acclimation.
- ▶ M/S/C (Gregg/Chang) to elect Dr. Gary Gitnick Secretary by acclimation.

Agenda Item 15 Agenda Items for April 2007 Meeting

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

Agenda Item 16 Public Comment on Items Not on the Agenda

There were no requests for public comment on items not on the agenda.

Agenda Item 17 Adjournment

Dr. Fantozzi adjourned the meeting at 9:15 a.m.

Richard Fantozzi, M.D., President

Hedy Chang, Secretary