



MEDICAL BOARD OF CALIFORNIA



ENFORCEMENT COMMITTEE

**Sheraton Gateway LAX
6101 Century Boulevard
Los Angeles, CA 92501**

Thursday, May 1, 2014

MINUTES

Agenda Item 1 Call to Order/Roll Call

The Enforcement Committee (Committee) of the Medical Board of California (Board) was called to order by Dr. GnanaDev, Chair. With due notice having been mailed to all interested parties, the meeting was called to order at 2:30 p.m.

Members Present:

Dev GnanaDev, M.D., Chair
Howard Krauss, M.D.
Elwood Lui
Gerrie Schipske, R.N.P., J.D.
David Serrano Sewell, J.D.
Barbara Yaroslavsky
Felix Yip, M.D.

Staff Present:

William Boyd, Investigator
Susan Cady, Staff Services Manager II
Dianne Dobbs, Legal Counsel, Department of Consumer Affairs
Errol Fuller, Investigator
Kimberly Kirchmeyer, Executive Director
Erin Nelson, Business Services Office
Regina Rao, AGPA
Jennifer Simoes, Chief of Legislation
Laura Sweet, Deputy Chief of Enforcement
Renee Threadgill, Chief of Enforcement
Lisa Toof, Administrative Assistant II
Tracy Tu, Investigator
See Vang, Business Services Analyst
Kerrie Webb, Staff Counsel
Curt Worden, Chief of Licensing

Members of the Audience:

Teresa Anderson, California Academy Physician Assistant
Gloria Castro, Senior Assistant Attorney General, Department of Justice
Yvonne Choong, California Medical Association

Enforcement Committee Meeting Minutes

May 1, 2014

Page 2

Alicia Cole, Consumers Union Safe Patient Project
Julie D'Angelo Fellmeth, Center for Public Interest Law
Karen Ehrlich, L.M., Midwifery Advisory Council
Jack French, Consumers Union Safe Patient Project
Michael Gomez, Deputy Director, Department of Consumer Affairs
Marian Hollingworth, Consumers Union Safe Patient Project
Tara Kittle, Consumer
Lisa McGiffert, Consumers Union Safe Patient Project
Tina Minasian, Consumers Union Safe Patient Project
Carol Moss, Consumers Union Safe Patient Project
Ty Moss, Consumers Union Safe Patient Project
Dan Orosco, MWU
Pishi Patel, AZCOM
Sarah Rashid, AZCOM
Suzan Shinazy, Consumers Union Safe Patient Project
Chris Vo, MWU
Michael Wong, AZCOM

Agenda Item 2 Public Comments on Items not on the Agenda

No public comments were provided.

Agenda Item 3 Approval of Minutes from October 23, 2013 meeting

A motion was made to approve the minutes from the October 23, 2013 meeting; s/Dr. Krauss. Motion carried.

Agenda Item 4 Discussion on the Memorandum of Understanding Between Medical Board of California and Department of Consumer Affairs Resulting from SB 304

Ms. Kirchmeyer explained the Memorandum of Understanding (MOU) between the Department of Consumer Affairs (DCA) and the Board, stating that it is important to have the MOU in place to identify what is necessary from both DCA and the Board with this transition. Ms. Kirchmeyer wanted to bring the completed draft to the Committee for review prior to signing it. She explained that the MOU is a document that outlines the agreement between DCA and the Board.

Ms. Kirchmeyer reviewed the requirements for DCA related to the types of budget reports that will be provided and how the Board will be charged for the services of the Health Quality Investigative Unit (HQIU).

Dr. GnanaDev stated that the Board is transferring its employees to DCA but it is financially neutral.

Ms. Kirchmeyer also explained DCA is creating a new asset forfeiture account; however the current funds in the Board's account will only be used for HQIU until the funds are

exhausted. The new asset forfeiture account will be exclusively under DCA and they will be able to spend that money for DCA.

Ms. Yaroslavsky questioned the effectiveness or appropriateness of collecting and dispersing the money collected.

Ms. Kirchmeyer stated that DCA was essentially collecting the funds and could be used for its employees.

Mr. Gomez spoke about how the evidence and investigative files can be shared and still maintain privacy in an information technology cloud, but that it is still in the formative stages.

Ms. Kirchmeyer stated that she would be signing the MOU with Mr. Gomez, so it would be in place July 1, 2014.

Agenda Item 5 Update on Transition of Staff to Department of Consumer Affairs Pursuant to SB 304

Mr. Gomez updated the Committee on the SB 304 implementation plan stating that all the contractual programs are moving forward and that only the Office of Standards and Training, the Chief, and Deputy Chief of Enforcement are moving from the Board to DCA.

Mr. Gomez reminded the Board that this month there will be a town hall meeting videocast in nine different venues for all current DCA Division of Investigation employees and the Board employees that are impacted by the transition.

Mr. Gomez also commented that DCA has been successful in getting support to buy new vehicles for all the Supervising Investigators of the HQIU.

Ms. Yaroslavsky questioned the Vertical Enforcement model manual that is being rewritten and wanted to know if she would be able to have a copy because the Board would like to know how it is going to affect the job performance of the investigators.

No public comments

Agenda Item 6 Presentation and Discussion on Enforcement Statistical Reports

Ms. Cady stated that the Enforcement Program routinely provides a lot of statistical reports to the Board Members as background information so that the Members can make informed policy decisions. Ms. Cady explained the current reports being used. She also stated that staff will continue to produce the Board's Annual Report and report the progress being made towards achieving the strategic goal of reducing complaint processing time.

Ms. Cady stated that she had developed a recommendation for a statistical report that consolidates the information currently produced into a single report. This report provides the average number of days to complete the complaint investigation and prosecution process,

along with the total number of complaints received or completed in that fiscal year. The report will also provide data covering a six-year period of time so that assessments regarding workload trends can be considered. Ms. Cady asked that the Committee provide direction as to what statistical information the Board will need from staff on a regular basis.

Dr. GnanaDev commented that the report was extremely confusing and that he would prefer highlights in the form of bar graphs to the in depth written report.

Ms. Yaroslavsky suggested that the Committee take a look at the enforcement numbers noting that the ability to track across several years gives a much better picture than using just one year. Ms. Yaroslavsky also stated that what the Board really needs to know is how many cases there are.

Ms. Kirchmeyer commented that there actually is a bar graph report for the complaint unit that shows all the information requested.

Tina Minasian, Consumers' Union Safe Patient Project questioned why cases closed because of the statute of limitations (SOL) running out were not listed on the chart.

Ms. Cady replied that in any of the statistical charts that are published it is not necessarily broken down by each and every cause for closure; that level of detail is not produced.

Dr. GnanaDev requested that Board staff provide the Board with the percentage of cases closed due to the statute of limitations expiring.

Ms. Yaroslavsky commented on Ms. Cady's statement that the Committee provide direction as to what statistical information the Board will need from staff on a regular basis. She suggested that the Board needs to have information such as how many cases are closed, and how many cases are referred to the Attorney General's Office. She also suggested that the Board should have the ability to compare and contrast future happenings against past happenings under the system.

Ms. Kirchmeyer replied that graphs will give them a pictorial of the statistics but, what the Board really needs to know is how long the investigation actually takes and how many cases are actually closed.

Ms. Kirchmeyer said that the staff is trying to streamline all the information to where only one set of data is given. She also noted that the information that the Board is asking for could be delivered in quarterly reports which would cut down on the repetition or duplication of information when preparing the annual report.

Agenda Item 7 Presentation on Interim Suspension Order Statistics

Ms. Kirchmeyer noted that the Members had recently asked for information on the number of interim suspension orders (ISOs) that the Board actually pursues and of those, how many are granted or denied.

A Member asked for the timeframe from when a petition is filed to when a petition is granted.

Ms. Kirchmeyer stated that from petition filed to petition granted is not an issue, but there are statistics that tell how long it takes to get to that final suspension.

Yvonne Choong, California Medical Association (CMA), thanked the Board for providing this data, stating that it clarified the questions CMA had about this process. Ms. Choong had some other suggestions for additional information that would help to further expand CMA's understanding of the ISO process; this would include knowing the types of violations that the ISOs are based upon, how many ISOs lead to accusations and actual discipline, which Offices of Administrative Hearing are issuing the ISOs and how many ISOs are being issued without prior hearing or formal written notice.

Agenda Item 8 Clarification of Expert Reviewer and Medical Consultant Responsibilities

Ms. Sweet stated that she was going to attempt to respond to several issues regarding medical consultants and expert reviewers that have been asked. Ms. Sweet explained the difference between the roles of the medical consultant and the medical expert, stating that most important is that the medical consultant is an employee of the Board and also part of the investigative team, while the expert reviewer is an independent contractor. The expert reviews a case that is within their specialty and about which they have articulated specific expertise. Ms. Sweet continued to explain in detail their duties and responsibilities.

Karen Ehrlich, Licensed Midwife, commented that she had previously been an expert reviewer and wanted to thank Ms. Sweet for this extremely clear rendering of what the difference is. Ms. Ehrlich stated that she thought it would be a good idea for Ms. Sweet's report to be part of the expert reviewer training, as well as public information available to anyone.

Agenda Item 9 Future Agenda Items

No items were provided.

Agenda Item 10 Adjournment

There being no further business, the meeting was adjourned at 3:45 p.m.

The full meeting can be viewed at www.mbc.ca.gov/board/meetings/Index.html