



MEDICAL BOARD OF CALIFORNIA
Executive Office



**The Westin Los Angeles Airport
Concourse A Room
5400 West Century Blvd.
Los Angeles, CA 90045**

January 31 – February 1, 2008

MINUTES

Agenda Item 1 Call to Order/Roll Call

Dr. Fantozzi called the meeting of the Medical Board of California (Board) to order on January 31, 2008 at 3:05 pm. A quorum was present and notice had been sent to interested parties.

Members Present:

Richard Fantozzi, M.D., President
Steve Alexander
Cesar Aristeiguieta, M.D.
Hedy Chang
John Chin, M.D.
Shelton Duruisseau, Ph.D.
Gary Gitnick, M.D.
Reginald Low, M.D.
Mary Lynn Moran, M.D.
Janet Salomonson, M.D.
Gerrie Schipske, R.N.P., J.D.
Ronald H. Wender, M.D.
Barbara Yaroslavsky
Frank V. Zerunyan, J.D.

Members Absent: None

Staff Present:

Barbara Johnston, Executive Director
Kimberly Kirchmeyer, Deputy Director
Stacie Berumen, Manager, Licensing Program
Fayne Boyd, Manager, Licensing Program
Kathi Burns, Manager, Licensing Program
Candis Cohen, Public Information Officer
Janie Cordray, Research Specialist
Nancy Edwards, Supervising Investigator, San Diego Office

Randall Freitas, Business Services Office
Kurt Heppler, Staff Counsel, DCA Legal Office
Armando Melendez, Business Services Office
Valerie Moore, Associate Analyst
Kelly Nelson, Legislative Analyst
Erich Pollak, M.D., Medical Consultant
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
Lori Taul, Office Technician
Frank Valine, Diversion Program Administrator
Linda K. Whitney, Chief of Legislation

Members of the Audience:

Michelle Butler, Center for Public Interest Law
Julie D'Angelo Fellmeth, Center for Public Interest Law
James Hay, M.D., California Medical Association
Sara Huchel, Senate Office of Research
Tara Kittle, General Public
Frank Lucido, M.D., General Public
Tim Madden, California Society of Plastic Surgery
Brett Michelin, California Medical Association
Tina Minasian, General Public
Janet Mitchell, General Public
Ty & Carole Moss, Niles Project MRSA
Carlos Ramirez, Senior Assistant Attorney General
M. Ramos, General Public
Gabriella Rodriguez, General Public
Carolyn Sam, Center for Public Interest Law
Antonette Sorrick, Deputy Director, DCA
Carrie Sparrevohn, L.M., California Association of Midwives
John Valencia, AM Society for Dermatologic Surgery
Anthony Williams, California Medical Association

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

A. Approval of Full Board Minutes from November 1 – 2, 2007 Meeting

Anita Scuri, Senior Staff Counsel, asked for one correction; the word “moral” is used instead of the word “morale” on page 12. It was M/S/C to approve the minutes from the November 1 - 2, 2007 meeting.

B. Approval of Division of Medical Quality Minutes from November 2, 2007 Meeting

It was M/S/C (Wender/Aristeiguieta) to approve the minutes from the November 2, 2007 meeting.

C. Approval of Division of Licensing Minutes from November 2, 2007 Meeting

It was M/S/C (Chang/Wender) to approve the minutes from the November 2, 2007 meeting.

Agenda Item 3 President's Report

A. Executive Committee Update

Dr. Fantozzi reported the Executive Committee met on January 10, 2008 in Los Angeles. He stated Ms. Whitney presented several bills that will be discussed under agenda item 4. The Committee also discussed AB 329 which established a pilot program to expand the practice of telemedicine. No funding was provided for staff to assist with this program.

It was M/S/C (Wender/Chang) to accept the recommendation of the Executive Committee to use the Medical Director position to establish a program manager to oversee the development and management of the telemedicine program.

Dr. Fantozzi stated the Executive Committee approved the re-organization of the Board Committees and directed the members' attention to page 32 of the board packet for the list of revised committees.

Dr. Fantozzi advised the Board will continue to take public comment on every agenda item but noted comments on non-agenda items are listed only on today's agenda. However, as this is a change, he will continue to take non-agenda item public comments today, as well as at the beginning of tomorrow's portion of the meeting.

B. Diversion Summit Update

Dr. Fantozzi reported the Board held a Diversion Summit on January 24, 2008 to allow interested parties the opportunity to provide options for the future, due to the impending sunset of the Board's Diversion Program. A summary of this summit will be made available on the Board's Web site within the next couple of weeks.

Agenda Item 4 Legislation Update

Linda Whitney, Chief of Legislation, provided an update on 2007 - 2008 Legislation and Proposals. She directed the Board's attention to their Legislative Packet.

The Board took the following positions:

AB 547 (Ma)	Cap on Fees	Support if Amended
AB 1154 (Leno)	Diabetes	Refer to Access to Care

SB 761 (Ridley-Thomas)	Diversion & Vertical Enforcement	Sponsor/Support
SB 797 (Ridley-Thomas)	Professions & Vocations	Support
SJR 19 (Ridley-Thomas)	Health Professionals: torture	Watch
ABX1 1 (Nunez)	Health Care Reform	Failed
SBX1 19 (Cogdill)	Medical Corporations	Oppose
SB1 24 (Ashburn)	Nurse Practitioners: scope of practice	Oppose

Ms. Whitney advised the Board that since most bills will not be introduced until the end of February, the Board may need an Executive Committee meeting to take positions on the newly introduced legislation.

Ms. Whitney directed the Board's attention to a copy of the legislative proposals approved by the Board as follows:

- Legislation to allow for a "cap" on the current (\$790) physician initial and renewal fees. This will allow the Board to set and revise the fee by regulatory action and allow the Board to have a two-to- six month reserve. AB 547 was introduced and Board staff is working with the author on this bill.
- Legislation for the extension of the Vertical Enforcement/Prosecution pilot. SB 797 is still on the Assembly floor.
- Legislation has been introduced on peer reporting under Business and Professions (B&P) Code sections 821.5 and 821.6 which requires the reporting of investigations conducted by hospitals when physicians have physical or psychiatric conditions. This legislation provides for reporting to the Executive Director and includes language for confidentiality of the reports.
- Legislation to amend section 2233 of the B&P Code to allow the Board to require an education course be included with a public letter of reprimand. The language has been developed, reviewed by Mr. Zerunyan, and Dr. Nakanishi has agreed to move it forward.
- Legislation to clarify language in B&P Code sections 801.1 and 801.01 related to multiple physicians reporting in settlements, judgments and arbitration awards. Staff proposes to develop this in regulatory language.
- Authorize staff to re-open discussions on the proposal for initial license for disabled individuals. Ms. Whitney will work with Dr. Gitnick and various legislative offices regarding the proposal.
- Public letter of reprimand for initial license for minor violations; the language has been approved, and put forward by Dr. Nakanishi.
- Division of Licensing approved various technical amendments. Many of these will be carried in the omnibus bill sponsored by Senate Business and Professions Committee. It will be introduced in March.
- \$500,000 one time for the Health Professions Education Foundation is being developed by legislation (bill) or carried by the budget act. Ms. Whitney has been meeting with the appropriate budget chairs to see if they would consider carrying this or if we should continue with legislation.

Dr. Gitnick reported since the Board's last meeting, the Health Professions Education Foundation has not come up with matching funds, but they are trying to develop private funding for the Steven M. Thompson Fund.

Jim Hay, M.D., California Medical Association (CMA), stated because there are surplus funds in the Board's budget this year and because there are no other alternatives at the moment, CMA did not oppose licensing fees being applied to the Steven M. Thompson Fund. He also wanted to clarify that the Orange County Register said that the CMA lobbied the Board to make this happen and that statement is incorrect.

Ms. Whitney stated she has been working with the Chief Consultant for the Senate Business and Professions Committee and Senator Ridley-Thomas, to entertain the idea of legislation related to the laser issue as it integrates with outpatient surgery settings for elective procedures. It was M/S/C to support in concept, the proposal to raise the priority level of unlicensed activity and corporate practice violations.

Steve Alexander stated the Board adopted a motion and would look at recommendations to the legislature about how to deal with the results of the Diversion Summit. Mr. Alexander stated this is a serious issue and the Board should not ignore the problem of impaired physicians.

After much deliberation by the Board, it was M/S/C to seek direction from its Education Committee to provide education and information within the current medical training system regarding physician impairment, wellness prevention and treatment, licensure and practice implications, and other issues relevant to informing physicians and applicants of the significant issue of impairment.

Ms. Whitney directed the Board's attention to the regulatory matrix in their board packet.

Ms. Whitney and Ms. Kirchmeyer discussed several issues that arose with the elimination of the two divisions and requested the Board provide direction on the following issues:

It was M/S/C (Wender/Yaroslavky) for licensing decisions to require two members to hold a decision to bring the matter back to the panel to discuss.

It was M/S/C (Wender/Chang) to change the legislation to require a majority vote instead of four votes to revoke a license. (Vote: 12-2, 1 abstained)

It was M/S/C (Wender/Gitnick) for licensing application decisions to continue without oral argument hearings.

It was M/S/C (Yaroslavsky/Wender) for the petitions for modification or termination of probation on licensing cases to mirror the enforcement process and be heard by an Administrative Law Judge.

Agenda Item 5 Executive Director's Report

A. Budget Overview and Staffing Update

Executive Director Barb Johnston provided her report on the budget and staffing update. She directed the Board's attention to page 37 of their board packet for information on the fund balance and the program expenditures.

Jim Hay, M.D., CMA, stated he is concerned there is \$4,000,000 in added expenditures, which is an 8% increase over prior budget. He stated the CMA is in support of AB 547 as currently written.

Frank Zerunyan requested clarification regarding the drop in surplus money investments as shown by item 150300 Income from Surplus Money Investments, page 37. He also requested clarification on budget 2007-2008 year showing a structural deficit between revenues and expenditures.

Ms. Kirchmeyer stated the drop in surplus money investments was based on the interest due on the Board's lower fund condition. Ms. Kirchmeyer explained the deficit between revenue and expenditures.

Mr. Zerunyan pointed out that this report shows by 2010-2011 the Board will be left with less than one month in reserve.

Ms. Johnston and Ms. Kirchmeyer explained the fund condition is always being reconciled.

B. Update on Board Mandated Reports

Ms. Johnston provided an update on Board mandated reports:

- Study of peer review pursuant to B&P Code section 805.2 – the study is being conducted by Lumetra and is due to be submitted to the legislature by July 31, 2008.
- Study of public disclosure pursuant to B&P Code section 2026 – the study is being conducted by the California Research Bureau and is due to the legislature on July 1, 2008.
- Study of medical malpractice insurance for Volunteers pursuant to B&P section Code 2023 – although this study was due January 1, 2008, the Board has been unable to locate an appropriate vendor to conduct this study. The Board is endeavoring to have this study completed by June 1, 2008.

Agenda Item 6 Demonstration of MBC Web site

Diane Ingram, Manager, Information Systems Branch, provided a Power-Point presentation and demonstration of the new MBC Web site and its features.

Agenda Item 7 California Physician Corp Program Update

Ms. Yaroslavky stated the Health Professions Education Foundation (HPEF) presented 12 loan re-payment awards to physicians in 2007, but no additional funds have been raised for future awards.

In regards to the volunteer program, this is on hold pending the outcome of the malpractice study and the implementation of those recommendations.

Agenda Item 8 Cultural and Linguistic Physician Competency Workgroup Meeting Update

Ms. Chang reported the group is working on a strategic plan. She would like the California Endowment to give a presentation to the Board on what they have done. Finally, the Department of Health and Human Services has a workgroup to discuss Medi-Cal reimbursement for the interpreter services.

Agenda Item 9 Access to Care Meeting Update

Dr. Gitnick reported the group discussed the implementation of AB 329 (Telemedicine). They reviewed the current and potential role of telemedicine in benefiting the public and the underserved. The group initiated the discussion of models of healthcare delivery such as project Dolce and minute-clinics. Staff was directed to research issues related to the scope of practice of non-physician health care providers.

A motion was made and seconded (Wender/Yaroslavsky) to support AB 1154, a pilot program giving diabetes medications and supplies to public employees.

Dr. Aristeiguieta stated the Board should take a “watch” position on this as he thinks this would serve a public that already has access to insurance and that can provide these services for themselves.

Public comment was heard from Janet Mitchell. She stated she has a daughter in college who is insulin dependent and upon her graduation will not be able to stay on their insurance. College students need a bridge of insurance and would be a perfect fit for this study.

The motion carried to support AB 1154. (Vote: 14-1)

Agenda Item 10 Education Committee Update

Ms. Yaroslavsky stated the committee name has been changed from the Public Education Committee to the Education Committee because the committee is expanding their outreach. Ms. Yaroslavky updated the Board on the committee’s work on proactive communication efforts. The committee reviewed AB 1154 and voted to support it.

Agenda Item 11 Medical Errors Task Force Update

Dr. Aristeiguieta stated their inaugural meeting was today and they had a round table discussion. They established a working objective/problem statement that states, “The Board would like to examine its

roll to determine if it could provide greater public protection by becoming involved in initiatives to reduce medical errors and how it might provide assistance”. Their objective now is to meet and define “medical error” and the role of the current disciplinary system.

Agenda Item 12 Wellness Committee Update

Dr. Duruisseau provided an update on the Wellness Committee meeting held in Sacramento on January 23rd, 2008. He stated Dr. Gregg wrote the first article on “Physician Wellness” which appeared in the Board’s newsletter. The committee approved the implementation of a Web page which will list the wellness programs available. This program will be a joint effort of the Board and the medical schools to initiate development of a curriculum that emphasizes healthy lifestyles while allowing this online resource to be available to current licensees. The committee also discussed the possibility of establishing a mentoring program. A representative from Kaiser came to the last meeting and spoke about the success of their mentoring program. The committee discussed doing research for the possibility of having rebates and discounts for medical malpractice and license renewals if the physician took incentives for personal improvement activities.

Agenda Item 13 Public Comments on Items not on the Agenda

Janet Mitchell stated she was alarmed the Board allocated \$500,000 for the scholarship fund while the Enforcement Program is having a large staff turnover, partially due to wages. She also thanked the Board for ending of the Diversion Program. She asked the Board to post any arrest information of a licensee on our Web site so patients can make educated decisions about physicians.

Tina Minasian thanked the Board for abolishing the Diversion Program. She also stated she would like the Board to require all California doctors to tell all patients about the existence of the Board and the Board’s role.

Michelle Ramos spoke to the Board about a doctor who was under the Diversion Program. She stated she wants the Board to go beyond ending the Diversion Program and to end all confidential policies related to the former program and let all records become public.

There being no further business, the meeting adjourned at 5:20 p.m.

Friday, February 1, 2008

Agenda Item 14 Call to Order/Roll Call

Dr. Fantozzi called the meeting to order on February 1, 2008 at 9:00 am. A quorum was present and notice had been sent to interested parties.

Members Present:

Richard Fantozzi, M.D., President
Steve Alexander
Cesar Aristeiguieta, M.D.
Hedy Chang
John Chin, M.D.
Shelton Duruisseau, Ph.D.
Gary Gitnick, M.D.
Reginald Low, M.D.
Mary Lynn Moran, M.D.
Janet Salomonson, M.D.
Gerrie Schipske, R.N.P., J.D.
Ronald H. Wender, M.D.
Barbara Yaroslavsky
Frank V. Zerunyan, J.D.

Members Absent: None

Dr. Fantozzi continued with Public Comment of Non-Agenda Items.

Tara Kittle expressed disappointment of the failure of the Governor's Health Care plan.

Frank Lucido, M.D. provided a copy of his article on medical cannabis, "*Implementation of the Compassionate Use Act in a Family Medical Practice*".

Agenda Item 15 Regulations – Public Hearing

A. Continuing Education Requirements

Dr. Fantozzi explained the Board's proposed regulation to amend Section 1336 in Article 11 of Chapter 1, Division 13, Title 16 of the California Code and Regulations. The Board is seeking to make changes to the Continuing Medical Education requirements to: 1. Direct licensees to complete at least 50 hours of approved CME during the renewal cycle (the two-year period immediately preceding the expiration of the license). 2. Change the calculations of CME hours from calendar year to renewal cycle year.

Anita Scuri stated Regulation, Section 1337(d) permits credits over a four-year period for those who take and pass a certifying or recertifying examination administered by a recognized specialty board, she asked to have the language of Section 1336(a) amended as follows:

- Each physician is required to complete not less than 50 hours of approved continuing education during each two-year period, immediately preceding the expiration date of the license except as permitted by Section 1337(d).

It was M/S/C (Yaroslavsky/Wender) to delegate to the executive officer, the authority to adopt the regulation as modified at the expiration of any 15-day comment period provided there are no adverse comments.

B. Delegation of Services – Physician Assistant

Dr. Fantozzi explained the Board proposed new regulations to amend Section 1399.540 in Division 13.8 of Title 16 of the California Code of Regulations.

Kurt Heppler, Staff Counsel, DCA Legal Office, stated this regulation was brought forth by the Physician Assistant Committee. This proposal would formally recognize the writing which delegates the medical services to the physician assistant be known as a “Delegation of Services Agreement” and requires that it now be signed and dated by both the supervising physician and the physician assistant. This proposal would also allow the delegation of services agreement to be signed by more than one supervising physician only if the same medical services have been delegated by each supervising physician. A physician assistant may provide medical services pursuant to no more than one delegation of services agreement.

Elberta Portman, Executive Officer, Physician Assistant Committee provided the members with a copy of a letter dated January 31, 2008 from the California Academy of Physician’s Assistants in support of this regulation.

Public Comment was heard from James Hay, M.D., CMA who spoke in support of the regulation.

It was M/S/C (Wender/Yaroslavsky) to adopt this regulation as written.

Agenda Item 16 Licensing Chief’s Report

A. Physician Assistant Committee Update

Ms. Portman stated the committee has approximately 6200 licensees and licenses about 58 physician assistants per year. She reported the committee has been working on probation monitoring and the implementation of AB 3 which was put into force on January 1, 2008. She stated the Committee is obtaining a contract to produce pocket license cards similar to the physician and surgeon’s pocket license cards.

B. Midwifery Advisory Council Report

Mr. Qualset stated the forms and instructions for the 2007 California Licensed Midwife Annual Report were mailed to all licensed midwives and are available on the Board’s Web site and can also be linked from the Office of Statewide Health Planning and Development’s (OSHPD) Web site. The reports are due to OSHPD on March 21, 2008.

Mr. Qualset reported remedial and re-entry training to practice programs were discussed by the Council. Faith Gibson, Chair of the Midwifery Advisory Council, stated the National College of Midwifery in New Mexico may be able to provide this training via distance learning.

Mr. Qualset discussed SB 1950 which requires the board to adopt regulations pertaining to the level of physician supervision for midwives. He stated this issue will not be taken up by the council at this point as they are addressing the issues of remedial/re-training.

Anita Scuri commented on a question raised regarding the Board's response to the legislature on SB 1950. She stated the Division of Licensing tried to get clarification from the Attorney General's Office to define what the levels of supervision would be, but were not successful in reaching a satisfactory resolution.

Dr. Fantozzi stated no report was required; however, a letter was sent to Senator Figueroa when the Board was unable to resolve the issue of physician supervision.

C. Research Psychoanalytic Institution Equivalency Report

Kathi Burns, Licensing Program Manager, reported there had been a previous request to the Division of Licensing that they consider a regulation change to allow Psychoanalytic Institutes holding accreditations through the American Board of Accreditations and Psychoanalysis, Inc. (ABAP) be considered equivalent for the purpose of obtaining certification as a research psychoanalyst or student research psychoanalyst in California. She stated staff has received a subsequent letter from ABAP indicating they may not wish to proceed with the process necessary to be included in California regulations at this time. Ms. Burns stated she will clarify this letter with ABAP before proceeding further.

D. Special Programs Update

Mr. Qualset stated the suspensions of new 2111 and 2113 applications have been lifted at two of the three schools that were suspended. He indicated licensing staff is planning a workshops with the medical schools to educate them on the proper use and application process of these Special Programs.

He stated the next Special Faculty Permit Review Committee will be held via teleconference per the committee's request.

E. Licensing Program Update

Mr. Qualset provided an update on the licensing program. He stated there has been a 2% increase in applications received but a 19% decrease in the number processed. He offered reasons such as new staff vacancies and staff learning curve for this anomaly.

F American Board of Cosmetic Surgery (ABCS) vs. MBC Update

Ms. Scuri provided a brief overview of B&P Code section 651 which specifies a physician can use the terms, "board certified or eligible" in their advertising only if he/she is certified by one of the American Board of Medical Specialties (ABMS) boards or a specialty board approved by the

Board as having equivalent requirements. The Board through the DOL has approved four specialty boards and disapproved two.

The DOL disapproved the ABCS. This decision is under judicial review and the Superior Court ruled in September 2006 that ABCS did meet the requirements to be approved and ordered DOL to grant the application. The DOL filed an appeal and the matter is set for argument March 17, 2008.

Dr. Wender stated he would like B&P Code section 651 amended to eliminate the requirement for the Medical Board to approve specialty boards not certified by the ABMS. He requested this be a future agenda item.

Agenda Item 17 Midwifery Advisory Council Appointments

It was M/S/C to re-appoint Carrie Sparrevohn and Barbara Yaroslavsky to the Midwifery Advisory Council.

Carrie Sparrevohn, L.M., stated the single most important issue for midwives giving home birth care is the lack of physician supervision. The standard of care requirements are difficult to obtain because of the need to obtain a physician's signature.

Agenda Item 18 Actions on Recommendations of Special Faculty Permit Review Committee

Dr. Gitnick reported the Committee met on January 10, 2008. They reviewed the qualifications and credentials of candidates Graeme Bydder, M.D., Ian Everall, M.D. Santiago Horgan, M.D. and Felipe Mederios, M.D., and approved appointments pursuant to Section 2168.1 of the Business and Professions Code. The recommendations includes granting a waiver of section 2168.1(a)(5) for Bydder, Everall, and Medeiros.

It was M/S/C (Gitnick/Alexander) to issue these Special Faculty Permits.

Agenda Item 19 Enforcement Chief's Report

Renee Threadgill, Chief of Enforcement, stated the Enforcement Program continues to hire and train investigators but retention problems still exist. She reported staff has met with a vendor to pursue a contract for a pay classification study and are awaiting that proposal. She added enforcement is working on the transition of probation cases from sworn to non-sworn personnel.

Ms. Threadgill stated the spring finance letter for Operation Safe Medicine was submitted. If the finance letter is not approved, staff will submit a Budget Change Proposal (BCP) for FY 2009/2010.

Ms. Threadgill discussed the Expert Program Survey. She reported overall satisfaction of the experts remains high and the survey form has been changed to include questions to evaluate interaction between the Deputy Attorney's General and the experts.

It was M/S/C (Wender/Yaroslavsky) to approve the Orders Restoring License Following Successful Completion of Probation, Orders Issuing Public Letter of Reprimand, and Orders for License Surrender During Probation.

Agenda Item 20 Vertical Enforcement Progress/Update

A. Information Technology Update

Ms. Threadgill directed the members' attention to pages 85 and 86 of their Board packet showing the timelines for the Intermediary Application and the Information Technology Integration, respectively. Ms. Threadgill stated the Board will submit a significant BCP for the new information technology system. She explained this budget item is extremely important and will allow the Board enforcement staff to be more integrated with the Department of Justice.

Ms. Threadgill and Carlos Ramirez, Senior Assistant Attorney General, stated the Board and the Department of Justice will be assembling teams to develop a Joint Operations Manual. Mr. Alexander stated his disappointment at the length of time to develop the Joint Operations Manual. Ms. Threadgill responded to comments regarding the lengthy timeframe by stating it was her understanding that this manual was not to be a revision of an old manual but a completely new joint manual between the two entities which takes much longer than just a mere revision of the existing Enforcement Operations Manual (EOM).

B. Vertical Enforcement Statistics

Ms. Threadgill directed the members' attention to page 88 of their Board packet showing the average days it took in the workflow of Vertical Enforcement in 2007. Ms. Threadgill asked for feedback from the members regarding the data that they would like to have provided to them.

- Dr. Aristeguieta stated he would like to see the statistics quarterly instead of annually. Also, he would like more information on how long it is taking from the filing of accusation and the resolution of the case.
- The members' requested clarification on business days vs. calendar days.
- Mr. Alexander asked Ms. Threadgill to track citations and fines. He directed staff to establish goals to assess how well the VE program is doing.

Agenda Item 21 Consideration of Proposal to Amend Disciplinary Guidelines Regulations

Ms. Kirchmeyer directed the members' attention to page 89-123 of their Board packet. She stated the Manual of Model Disciplinary Orders and Disciplinary Guidelines has been edited to reflect changes that were adopted in the transition plan.

It was M/S/C (Aristeiguieta/Yarolslavsky) to set this matter for a regulatory hearing.

Ms. Kirchmeyer stated several members have commented on the Disciplinary Guidelines and the need for revision. She requested a task force consisting of a physician and a public member be established to meet with her and Ms. Threadgill to revise the Disciplinary Guidelines. Dr. Fantozzi appointed Dr. Aristeiguieta and Ms. Schipske.

Agenda Item 22 Consideration of Proposal to Adjust Initial Licensing and Renewal Fees Pursuant to Sunset of Diversion.

Ms. Kirchmeyer directed the members' attention to page 124 of their Board packet. She stated the expenditures for the Diversion Program will be eliminated on June 30, 2008 and under B&P Code section 2435.2 the licensing fees must be reduced to an amount equivalent to this expenditure.

It was M/S/C to set this to a regulatory hearing to reduce the licensing fee by \$22.00.

Brett Michelin, CMA, supports the staff recommendation to begin the hearing process. He reminded the Board the statute requires the Board to either return the money or send money to a new entity that will do something similar to the Diversion Program.

Agenda Item 23 Diversion Program Report

A. Program/Transition Update

Frank Valine, Diversion Program Manager, provided an update on the Diversion Program. He indicated intakes will continue to decrease. Participants with three years sobriety have been evaluated for release from the program. He stated letters were sent to all participants informing them of the Board's transition plan.

B. Fiscal Report

Mr. Valine directed the Board to the Fiscal Report on page 142 and 143 of the Board packet showing the Diversion Program has encumbered 41% of its annual budget.

Agenda Item 24 Policy Statement on Access to Care/Healthcare Reform

Dr. Fantozzi stated the Executive Committee determined the Board should have a policy statement indicating the Board's responsibility, intention, and support of healthcare reform.

A motion was made and seconded (Wender/Chang) to adopt the Access to Care Policy Statement.

Dr. Aristeiguieta stated he would like to make the following changes:

- Change paragraph five to read, “The Medical Board, in its regulatory and consumer protection role, must evaluate various access-to-care delivery models to ensure consistency with the Medical Practice Act”.
- Change the, “must evaluate” to “may evaluate.”

Public comment was heard by Carrie Sparrevohn, L.M., who stated she would like to see the Board work with the legislature to provide real access to care and that this letter does not do enough.

Following discussion the motion carried.

Agenda Item 25 Laser Forum’s Summary

Janie Cordray, Research Program Manager, stated in 2006 the legislature passed SB 1423 which directed the Board, in conjunction with the Nursing Board and Physician Assistant Committee to review laser issues for cosmetic procedures. Three public forums were convened and testimony was heard regarding the importance of educating and enforcing the related laws for public protection.

It was M/S/C (Chang/Yaroslavsky) to adopt the statements requested in the report.

Tim Madden, California Society of Plastic Surgeons, stated they are in support of the recommendations put forward. They are encouraged by Operation Safe Medicine. Patient/consumer education, and supervision are both very critical moving forward.

John Valencia, American Society for Dermatologic Surgery, stated the testimony at the three forums were very graphic and disturbing. Enforcement and supervision are essential and they intend to submit a regulatory petition to the Board regarding supervision next week.

It was M/S/C (Schipske/Yaroslavsky) to accept the staff’s recommendation and send a letter to the Board of Registered Nursing regarding the serious nature of the laser issue and offering to work with them to resolve the issues.

Dr. Aristeiguieta stated we should contact the Board of Registered Nursing for a definition of their “scope of practice” regarding laser procedures and their supervisory requirements to incorporate in our publications.

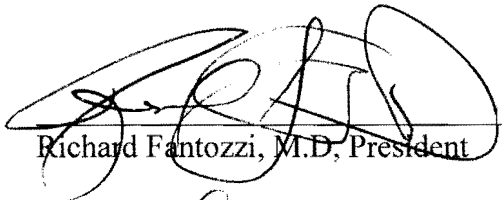
Agenda Item 26 Agenda Items for April 2008 Meeting

- B&P Code 651 - approval of specialty boards
- Laser Forum and Safety – review letter being drafted
- Access to Care – presentation of the patient assistance program

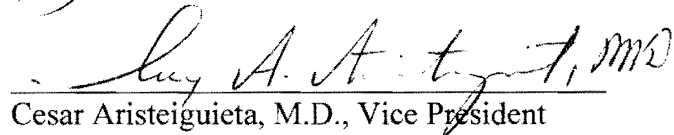
- Janet Mitchell asked that AB 2571 be re-addressed

Agenda Item 27 Adjournment

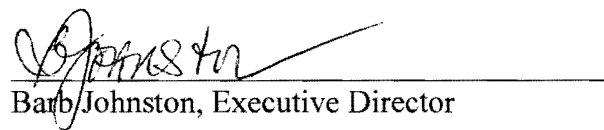
There being no further business, it was M/S/C to adjourn the meeting at 11:45 a.m.



Richard Fantozzi, M.D., President



Cesar Aristeiguieta, M.D., Vice President



Barb Johnston, Executive Director