



MEDICAL BOARD OF CALIFORNIA
Executive Office



Sacramento Convention Center
1400 J Street, Room 204
Sacramento, CA

April 25, 2008

MINUTES

Agenda Item 2 Call to Order/Roll Call

Dr. Fantozzi called the meeting of the Medical Board of California (Board) to order on April 25, 2008 at 9:00 a.m. 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
Kurt Heppler, Staff Counsel, DCA Legal Office
Armando Melendez, Business Services Office
Kelly Nelson, Legislative Analyst

Stephanie Nunez, Respiratory Care Board
Michele Panora, Vitality Medical Laser Clinic
Rosielyn Pulmano, Senate B & P Committee
Carlos Ramirez, Senior Assistant Attorney General
Celia Remy, MD, Vitality Medical Laser Clinic
Damon Scuzzo, South Coast Med Spa
Tim Simerson, M.D., General Public
Carrie Sparrevohn, L.M., California Association of Midwives
John Valencia, Wilke, Fleury, Hoffelt, Gould & Birney, LLP
Alan Voss, General Public
Spencer Walker, Department of Consumer Affairs
Jamie Warner, Belle Visage Medical Coop
Brian Warren, Department of Consumer Affairs
Hermine Warren, APRN, Association of Medical Esthetic Nurses
Angelo Whitfield, Sophus Consulting
Anthony Williams, California Medical Association

Agenda Item 3 Approval of Minutes from January 31 - February 1, 2008 Meeting

It was m/Yaroslavsky, s/Moran, c/All to approve the minutes from the January 31 – February 1, 2008 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 25, 2008 meeting.

Agenda Item 4 Public Comment on Items not on the Agenda

Ron Joseph provided information to the Board on a study being funded by a grant from The California Endowment entitled “Strengthening the Community’s Voice” on California’s Health Care Licensing Boards. He explained the project aims to promote closer ties between health care licensing board public members and culturally diverse grassroots constituencies so as to increase the attention paid to cultural and linguistic competence in board policy deliberations and enhance the boards’ understanding of the many ways the board’s decision-making affects Californians’ access to safe, appropriate care. Mr. Joseph promised to return and inform the Board of their progress at a future meeting.

Agenda Item 5 REGULATIONS – PUBLIC HEARING

Dr. Richard Fantozzi called the hearing to order and announced the Board would conduct a public hearing on the proposed regulations to amend Sections 1351.5 and 1352 of Title 16 of the California Code and Regulations to reduce license and renewal fees by \$22 to offset costs from the elimination of the Diversion Program. For the record, Dr. Fantozzi established the date and time of the hearing as April 25, 2008 at 9:07 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 procedure that would be followed during the hearing.

- A. Reduction in Initial License Fee and Renewal Fee to Offset Elimination of Diversion Program** – Business and Professions (B&P) Code Sections 2340 et seq., which authorizes the Board’s Diversion Program, become inoperative July 1, 2008. Section 2435.2 of the B&P Code states that the Board shall reduce license and renewal fees if the Diversion Program is eliminated. Therefore, pursuant to the requirements of the latter section, the board is proposing to amend sections 1351.5 and 1352 to reduce the initial license fee and biennial renewal fee from \$805 to \$783.

Anita Scuri, Senior Legal Counsel explained this proposal would make conforming changes to reflect statutory changes and to reflect elimination of the Diversion Program.

Public testimony was heard from Anthony Williams, California Medical Association (CMA). He stated there should be some type of replacement program available to physicians to treat substance abuse and mental illness issues and the Board could redirect the reduction of the license and renewal fees to such a program through legislation.

Mr. Williams asked why only \$1.2 million had been identified to be returned to physicians when in Fiscal Year (FY) 2006/2007 the Diversion Program budget was \$1.68 million and in FY 2007/2008 the budget was \$1.4 million.

Kim Kirchmeyer, Deputy Director, responded and directed the members’ attention to page 146 in their Board packet. Ms. Kirchmeyer stated the FY 2006/2007 budget of \$1.7 million included the \$300,000 study conducted by the Bureau of State Audits (BSA) and the one time costs for cars and equipment for new positions. She added the \$1.2 million figure came from the DCA Budget Office and it does not include pro rata.

A motion was made and seconded to adopt the regulation to amend 1351.5 and 1352 of Title 16 to reduce the initial license fee and renewal fee. The motion carried.

B. Disciplinary Guidelines

Dr. Richard Fantozzi called the hearing to order and announced the Board would conduct a public hearing on the proposed regulation to amend Sections 1361 in Article 4 of Chapter 2, Division 13, Title 16 of the California Code of Regulations. For the record, Dr. Fantozzi established the date and time of the hearing as April 25, 2008 at 9:40 a.m. He explained this proposal would amend our regulations which incorporate by reference the disciplinary guidelines entitled “Manual of Disciplinary Guidelines and Disciplinary Orders.” These amendments are being made to keep the guidelines current and useful. First, references to the Division of Medical Quality are amended to refer to the Board. Second, conforming changes are being made to reflect the elimination of the Diversion Program.

Anita Scuri, Senior Legal Counsel, clarified the proposed amendments to the existing regulatory language.

No oral testimony was submitted. No written testimony was submitted within the comment period.

After calling for comments from the members and receiving none, Dr. Fantozzi then called for a motion.

A motion was made and seconded to adopt the amendments to the Section 1361 of the CCR. The motion carried unanimously.

Agenda Item 6 Petition to Promulgate Regulations Pursuant to Government Code Section 11340.6 Concerning Physician Direct Supervision

Kurt Heppler, Staff Legal Counsel, DCA, explained the Board received a petition from John Valencia on behalf of the American Society for Dermatologic Surgery Association, the CalDerm and the Osteopathic Physician and Surgeons of California to consider amending its regulations to define the supervision of nurses. Mr. Heppler advised the Board they could accept or deny the petition in whole or in part.

Ms. Scuri clarified this is not a hearing; this is the time to make a decision on the petition.

A motion was made and seconded to adopt staff's recommendation to deny the petition at this time, pending the outcome of AB 2398 and SB 1454.

Public Comment was heard by:

- John Valencia, Wilke, Fleury, Hoffelt, Gould & Birney, LLP, spoke in support of accepting the petition.
- Suzanne Kilmer, MD, Laser & Skin Surgery Center of Northern California, spoke in support of the petition.
- John Caldwell, Cal Derm, spoke in support of the petition.
- Anthony Williams, CMA spoke in support of the petition.

Discussion ensued by the members.

Dr. Aristeiguieta stated the Board could move forward in the event the legislation is unsuccessful.

Ms. Schipske stated the main question now is how to define direct supervision.

Dr. Moran stated her concern is this petition might not be the appropriate vehicle.

Dr. Fantozzi called for the motion. The motion carried. (Vote: 12-1, 1 abstained)

Agenda Item 10 Cultural and Linguistic Physician Competency Workgroup Meeting Update

Ms. Chang reported the initial grant provided by the California Endowment to the Institute of Medical Quality (IMQ) for incorporation of cultural and linguistic competency components into all continuing medical education (CME) courses may be extended. So far, the grant has enabled IMQ to assist continuing medical education providers to incorporate necessary requirements into CME courses and serve as a resource to physicians to locate particular course topics through the establishment of an informational Web site and by holding various workshops and seminars. A meeting of the Workgroup members will be scheduled for July or August of 2008 to study the progress of cultural and linguistic competency opportunities for California physicians.

Agenda Item 7 President's Report

Dr. Fantozzi reported on the following events:

- He attended a special hearing in March 2008 and provided testimony for Senator Mark Ridley-Thomas on the review of physicians and health practitioner's substance abuse programs.
- He and Barb Johnston will be attending the Federation of State Medical Boards' (FSMB) Annual meeting being held on May 1-3, 2008 in San Antonio, Texas. He announced Hedy Chang is a candidate for an elected position on the Nominating Committee of the FSMB and wished her success.
- During the past few months he has been interviewed by a variety of newspapers and CNN regarding the end of the Diversion Program

Dr. Fantozzi stated the Wellness Committee is making great progress. They are working on developing a Web site which will be available soon. He thanked Dr. Duruisseau for the progress of the committee.

Agenda Item 8 Executive Director's Report

A. Budget Overview and Staffing Update

Ms. Johnston directed the members' attention to page 147 of their board packet for information on the budget. She noted concept papers were submitted in April and the final Budget Change Proposal's (BCP's) will be submitted to the Department by June 1, 2008. The board will know by October/November if the BCP's will be approved.

Ms. Johnston announced she was pleased to report the monumental task of moving into the Board's new headquarters location is completed. She reported one of the main challenges

related to this massive undertaking was the difficulties encountered with the new telephone system, FAX machines, card keys and conferencing call capabilities. She expressed concern the Board may receive complaints from consumers even though notice was provided on our Web site regarding the relocation.

Ms. Johnston reported Kathi Burns has been acting as Interim Chief of Licensing. She stated Ms. Burns has done an outstanding job in providing leadership and decreasing license application timelines.

Ms. Johnston provided an update on vacancies and explained the Board continues to recruit and train investigators. She reported the Board currently has a 17% vacancy and it is anticipated that by mid-summer it will be at 31%. She explained the high vacancy rate is compounded by several planned retirements and by the continuation of staff leaving for other positions. She stated the main challenge remains compensation for Board investigators. She reported the investigator compensation study began this week and staff has been in discussion with both the Department and Agency regarding the Board's continued request to improve compensation for our investigators.

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 contracted vendor is on schedule and expects to have a draft on June 1, 2008.
- Study of medical malpractice insurance for volunteers pursuant to B&P section Code 2023 – Board staff is obtaining a contact through the Department with a vendor to perform the study.
- Study of public disclosure pursuant to B&P Code section 2026 – The study is being conducted by the California Research Bureau and they are expected to have a report by July 1, 2008.

Agenda Item 9 California Physician Corp Program Update

Barbara Yaroslavsky reported the Health Professions Education Foundation (HPEF) is pleased to have a new director in place. They are working vigorously on developing opportunities and cultivating donors to continue support for the Stephen M. Thompson Loan Repayment Program.

Agenda Item 11 Education Committee Update

Ms. Yaroslavsky provided an update on the staff's proactive outreach/communication efforts since the last Board meeting. The Board's actions regarding the Diversion Program continue to generate particular interest in the media. She stated in the last quarter, staff has represented the Board at six consumer-oriented events, four professional organization events and have more events scheduled this summer. Two recent Board Newsletter articles, "House", written by Dr.

Aristeiguieta, and the “Physician Wellness” article, written by Dr. Duruisseau, have been very well received. Ms. Yaroslavsky asked members to contact Candis Cohen if they would like to add an article in the newsletter.

Ms. Yaroslavsky reported that Peter Moskowitz, M.D., from Stanford University, provided a presentation on physician health and wellness. The committee also heard related reports from Jeff Hall, University of California, Office of the President; Dr. David Shearn, Kaiser Permanente; and Dr. Maria Savoia, U.C. San Diego.

Public comment was heard by Tara Kittle, health care consumer, who commented the causes of physician burnout needed to be explored.

Agenda Item 12 Medical Errors Task Force Update

Dr. Aristeiguieta reported the Task Force adopted the following working statement:

“To examine the Board’s role in promoting patient safety through developing or participating in systems that encourage and assist physicians in addressing medical errors consistent with the Board’s mission and resources.”

He stated the next step is to define “Medical Errors” within the context of the Medical Board and within its mission.

Dr. Low explained the issue of no fault reporting was a tool to gather more data to define medical errors.

Ms. Schipske stated there may be a need for a no fault reporting system however the Board is not the entity to establish or utilize it.

A lengthy discussion followed by the members. In conclusion some members felt policy decisions should be based on the Board’s mission which is to license, and when necessary, discipline physicians when they violate the Medical Practice Act. Members agreed the Board should not support any type of no fault, confidential medical error reporting system.

Agenda Item 13 Physician Assistant Committee

Dr. Low reported he was appointed as the Medical Board member to serve on the Physician’s Assistant Committee (PAC). He provided an update on the February 2008 meeting and reported the PAC is sponsoring legislation (AB 2482) that would authorize the committee to require the licensees to complete continuing education as a condition of license renewal. He explained this bill would limit the continuing education requirements to no more than 50 hours every two years and would require the committee to except certification by a specified commission or another qualified, certifying body as evidence of compliance with continuing education requirements.

Dr. Low also provided an update on AB 3 which allows a physician assistant to administer, provide, or issue drug orders for Schedules II – V without advance approval by a supervising physician and surgeon, **if the physician's assistant completes specified education requirements**. He reported the PAC has held numerous public forums over the past 6 months on this issue and have decided to move forward with regulations to establish course, content, course time frames, define course providers, and provide a written examination. The hearing on these proposed regulations will be held on May 1, 2008 at the PAC meeting in Sacramento.

Agenda Item 14 Licensing Chief's Report

A. Renewal of Special Faculty Permits – Continuing Medical Education

Kathi Burns, Interim Chief of Licensing, reported this item was being deferred to the legislative portion of the meeting.

B. Licensing Program Update

Ms. Burns provided an update on the licensing program statistics as noted in the chart on pages 161 and 162 of the board packet.

Ms. Yaroslavsky asked Ms. Burns how these statistics compare to previous years as she had heard that nationally there was a decrease in the issuance of medical licenses.

Ms. Burns indicated that although, at this point in the fiscal year, the number of licenses issued appeared low, the number of applications received was high, indicating that a decrease in the number of licenses was not likely.

Ms. Burns reported the Licensing Section is fully staffed and processing applications within mandated time requirements.

Ms. Burns reported staff has completed the outline of an on-line application instructional program designed to assist applicants in completing the Board's application for medical licensure. Staff is seeking proposals from outside design firms to further develop the outline into a tutorial course accessible on the Internet.

C. Special Programs Update

Ms. Burns reported a Special Programs workshop was held on April 3, 2008, via video conference in Sacramento, Oakland and Los Angeles, California. Six of the eight medical schools were represented. The workshop focused on license exemptions authorized by Business and Professions Code sections 2111, 2113 and 2168. Staff provided an overview of the application process and site visit protocols during the workshop and responded to various questions from those in attendance. Further workshops will be needed during the year to discuss possible regulatory amendments to improve and clarify the intent and proper use of these special license exemptions.

D. Midwifery Advisory Council (MAC) Report

Ms. Burns reported the next MAC meeting will be held on June 19, 2008, in Sacramento. The MAC spent this past year developing the format to collect practice data related to California licensed midwives as authorized by recent law. The data information is collected by the Office of Statewide Health Planning and Development and reported to the Board each July. To date, 126 out of a possible 196 licensed midwives have submitted reports. A reminder note will be sent to those next week who have yet to report.

The MAC continues to research the possibility of having the National College of Midwifery in New Mexico, provide remedial and re-entry to practice training for California Licensed Midwives.

Carrie Sparrevohn, L.M., requested the Board allow the MAC to hold public meetings to focus on full implementation of SB 1950 and to define physician supervision to ensure public safety is appropriately protected.

Agenda Item 15 Enforcement Chief's Report

A. Enforcement Program Update

Renee Threadgill, Chief of Enforcement, reported enforcement staff conducted an outstanding post-certified, (peace officers standards and training) supervisor training. She introduced Robin Braafladt and Laura Sweet, both Senior Enforcement staff and presented Ms. Sweet with a plaque for her series of articles entitled "The Seven Deadly Sins".

She announced the Precedential Decisions have been indexed and are available on the Board's Web site.

Public comment was heard by Frank Cuny, California Citizens for Health Care Freedom. He saluted the Board for their individual struggles and dedication. He commented he would like to see physicians practice alternative medicine that is safe and effective. He recommended the Board use reviewers trained in the same field as the physician in alternative medicine cases.

Ms. Threadgill, directed the Board to the Expert Utilization Report where there are a number of complimentary alternative experts listed.

Dr. Aristeiguieta suggested the Board use a median and a mean when reporting enforcement statistics.

B. Approval of Orders Restoring License Following Successful Completion of Probation, Orders Issuing Public Letter of Reprimand and Orders for License Surrender During Probation.

It was m/Alexander, s/Aristeiguieta to approve the orders restoring license following successful completion of probation, orders issuing public letter of reprimand, and orders for license surrender during probation.

Mr. Zerunyan asked for clarification regarding reference to the term “successful completion of probation” and suggested it would be more appropriate to change the language to read: “following *satisfactory* completion of probation”.

Ms. Threadgill explained these orders do not pertain to petitions for early termination or modification of probation. They result from restoration of licenses upon successful completion of probation.

Mr. Alexander modified his motion to reflect Mr. Zerunyan’s comments to include the change to the language on the consent orders from “successful” to “satisfactory”. The motion carried.

C. Expert Reviewer Survey Update

Ms. Threadgill directed the members’ attention to page 163 of their board packet for the results of the Expert Survey Questionnaire. She highlighted some suggestions for improvement to the program included receiving the information in electronic format versus a hard copy. She stated enforcement staff will explore implementing this suggestion.

D. Expert Reviewer Utilization Update

Ms. Threadgill directed the members’ attention to page 167 of their board packet for information on Use of Experts by Specialty and cases sent to experts for review. The information indicates we continue to increase our number of experts while not over utilizing any one expert.

E. Vertical Enforcement Statistics

Ms. Threadgill and Ms. Kirchmeyer provided a power point presentation on investigation and prosecution timeframe statistics. The charts compare timelines for prosecuting cases before the vertical enforcement (VE) model and after the VE model. In addition, statistics were compared for investigations that were closed without proceeding to disciplinary action for pre VE cases and post VE cases.

Mr. Zerunyan stated he has a few concerns and a possible future agenda item to consider. He noted it is important to see these timelines and the process of what he considers the most important function of public protection. Although these are valiant efforts, the timeframes given are unsatisfactory from a public protection standpoint. He requested staff report on recommendations for timeline reductions as a future agenda item.

Ms. Threadgill responded following an LA Times article, staff began exploring ways to decrease the enforcement process timeframes. Staff identified there is duplication in requesting records. She suggested the Board seek legislation to mandate certification of records requested by the Medical Board.

It was m/Gitnick, s/Yaroslavsky to seek legislation this year to require entities to provide certified medical records to the Board upon request.

Dr. Aristeiguieta asked legal staff to clarify if the Board can continue discussion on an item which is not on the agenda.

Ms. Scuri suggested it would be more appropriate to consider this issue under the legislative portion of the agenda.

Agenda Item 16 Vertical Enforcement Update

Ms. Threadgill and Mr. Ramirez reported the Joint Guidelines have been completed. Mr. Ramirez stated he would be happy to answer any questions the Board may have.

Dr. Salomonson asked for clarification regarding the prioritizing of cases.

Mr. Ramirez responded the legislature has set forth priorities for case processing. In addition, any case that poses an imminent risk to the public is given the highest priority.

Dr. Gitnick, stated he was impressed with the data but concerned even in the best cases it is taking hundreds of days to completion. He asked if there is anything the Board can do to shorten this period of time.

Mr. Ramirez stated he will provide recommendations to reduce the timeframes at the July meeting.

Mr. Zerunyan asked if there is any further information on the development of a new information technology system.

Angelo Whitfield, Information Technology Consultant, Department of Justice, reported HQE and the Board have begun to share information.

Public Comment was heard by:

- Tina Minasian thanked the Board for all they do to protect the public. She was a victim of a doctor in Diversion and is concerned timeframes have hindered the process of justice.
- Tara Kittle commented it takes too long for a case to be finalized. She suggested the Board go back to the legislature.

Ms. Whitney directed the members' attention to their legislative packet and provided an update on 2008 legislation.

- AB 547 (Ma) - Cap on Fees. She has asked for an amendment to allow for a range in the months we have in our reserve. No action needed.

Dr. Fantozzi asked Spencer Walker, Deputy Director, DCA, if he would work with Ms. Whitney to get an opinion from the DCA on this subject.

- AB 1154 (Leno) - Diabetes. No action needed.
- AB 1944 (Swanson) - Corporate Practice of Medicine. Ms. Whitney recommended the Board oppose the bill.

It was M/S/C to oppose the bill.

Brett Michelin representing the CMA spoke in support of staff's recommendation to oppose this bill. He also stated they support AB 1640 and SB 1294.

- AB 1951 (Hayashi) - Psychiatrists; suicide prevention training. Ms. Whitney recommended the Board oppose unless amended.

Mr. Alexander asked if we could change the position to support if amended.

Ms. Whitney explained that "oppose unless amended" is considered neutral; "support with amendments" is not considered neutral.

It was m/Alexander, s/Yaroslavsky, to oppose unless amended.

Dr. Gitnick asked whether the wording could be interpreted as requiring the medical school to provide this form of training or is the bill limited to CME requirements.

Ms. Whitney responded this bill requires all medical school to include this training.

Dr. Gitnick respectfully opposed this bill and stated he does not believe the legislature should be telling medical schools what they should or should not teach without the input of the medical schools.

Mr. Alexander accepted the amendment to the motion to oppose the bill. It was m/Alexander, s/Yaroslavsky, c/All to oppose the bill

- AB 2398 (Nakanishi) - **Cosmetic Surgery/Supervision**. Ms. Whitney recommended the Board support this bill.

It was m/Alexander, s/Yaroslavsky to support the bill.

Brett Michelin, CMA stated they have not taken a position on AB 2443 but believes there should be some parameters placed in the bill with regard to fiscal consideration.

- AB 2444 (Nakanishi) Public Letters of Reprimand with Education. This is a board sponsored bill. This bill would allow the Board to impose specific educational requirements in conjunction with public letters of reprimand. The bill is on the Assembly Floor.
- AB 2445 (Nakanishi) Public Letters of Reprimand at time of initial licensure. This is a Board sponsored bill. This would allow issuance of public letters of reprimand at initial licensure. The bill is on the Assembly Floor.
- AB 2482 (Maze) Physician's Assistants; continuing education. This bill would allow PAC to require continuing education. Ms. Whitney recommends the Board support this bill.

It was m/Low, s/Alexander, c/All to support the bill.

- AB 2516 (Mendoza) Prescriptions; electronic transmission. This bill would require physicians to send prescriptions electronically to a patient's pharmacy of choice. Amendments add that transmission must be type written. Ms. Whitney recommended support if amended to provide an exemption or extended implementation date for special cases appealed to the Pharmacy Board.

It was m/Alexander, s/Shipske to support if amended to provide an exemption or extended implementation date for special cases appealed to the Pharmacy Board.

Ms. Whitney stated she was just informed the author was pulling the bill. No further action required.

- AB 2543 (Berg) Loan Repayment Program; geriatric. This bill would require that 15% of available money be applied to physicians in a geriatric setting. Ms. Whitney recommended the Board oppose this bill.

It was m/Aristeguieta, s/Yaroslavsky, c/All to oppose the bill.

- AB 2649 (Ma) Medical Assistants; authorized services. This bill would specify the provisions that allow a medical assistant to perform services relating to the administration of certain procedures. Clarifies current laws and might be unnecessary. Ms. Whitney recommended the Board take a neutral position on this bill.

It was m/Yaroslavsky, s/Alexander, c/All to take a neutral position on the bill.

- AB 2734 (Krekorian) Advertisements; license number and Board Web site. This bill would require on July 1, 2009 that business cards of physicians include the licensing

agency and a valid license number or fictitious name permit number. Ms. Whitney recommended the Board support this bill.

It was m/Alexander, s/Zerunyan, c/All to support the bill

- AB 2747 (Berg) End of Life Care. This bill requires attending physicians, when making a diagnosis that a patient has a terminal illness, to provide the patient an opportunity to receive information and counseling regarding all legal end of life care options, if the patient requests the information. Ms. Whitney recommended the Board take a neutral, if amended, position to clarify that materials or information should be provided.

It was m/Durussieau, s/Alexander to take a neutral, if amended, position on this bill. The motion carried. (1 abstained)

- AB 2841 (Ma) Medical Procedures; reusable adipose cannula. This bill requires patients be notified through a written disclosure statement prior to any medical procedure in which a reusable cannula is to be used. Ms. Whitney recommended the Board oppose this bill.

It was m/Alexander, s/Yaroslavsky, c/All to oppose the bill.

- AB 2968 (Carter) Cosmetic Surgery; physical exam. This bill would prohibit elective cosmetic surgery on a patient unless prior to surgery, the patient has completed a physical exam by and has received written clearance for the procedure from a physician. The amendment allows a dentist with a permit to perform facial cosmetic surgery to perform that physical. Ms. Whitney recommended oppose unless amended to allow those healthcare practitioners who are authorized to perform physical examinations to be able to complete physical exams for patients.

It was m/Yaroslavsky, s/Alexander, c/All to oppose the bill unless amended.

- AB 2969 (Lieber) Worker's Compensation; medical treatment utilization reviews. This bill would require a physician who is conducting utilization review to be licensed in California. Ms. Whitney recommended the Board support this bill.

It was m/Yaroslavsky, s/Alexander to support the bill.

Carl Brakensiek, California Society of Industrial Medicine and Surgery, spoke in support of the bill.

Dr. Fantozzi called for the motion. The motion carried.

- SB 797 (Ridley-Thomas) Vertical Enforcement/Prosecution extension. Ms. Whitney reported this bill was amended and an urgency provision has been placed in the bill. This bill is the extension of the Vertical Enforcement/Prosecution model. This bill would clearly state the investigators are not under the supervision of the deputy attorney general

and also states the intent for the Medical Board to increase its computer capabilities with HQES and states intent to implement a plan to co-locate offices.

- SB 1294 (Ducheny) Employed Physicians; pilot project. This bill makes minor changes to the Board's current pilot program which allows for the direct employment of physicians and surgeons by qualified health districts. Ms. Whitney recommended the Board support this bill.

Dr. Aristeiguieta recommended the Board oppose this bill. His concern is physicians should have independent judgment and not be threatened by their employment status.

Ms. Scuri asked if Dr. Aristeiguieta would support this bill if amended to add a provision to clarify that district hospitals will not interfere with the independent judgment of the physician.

Ms. Whitney stated the Board can take a neutral position on the bill and she can bring information to the members at the July meeting.

It was m/Aristeiguieta, s/Alexander, c/All to take a neutral position on this bill.

- SB 1379 (Ducheny) Loan Repayment; permanent funding source. This bill would prohibit the Department of Managed Health Care from using fines and penalty revenues to reduce assessments levied on health care service plans and redirects these penalty revenues to the Physician Corps Loan Repayment Program. Ms. Whitney recommended the Board support this bill.

It was m/Aristeiguieta, s/Duruissseau, c/All to support this bill.

- SB 1394 (Lowenthal) Lapses of Consciousness; reports to DMV. This bill authorizes a physician to report to the DMV information relating to a patient whom he has diagnosed having suffered a lapse of consciousness when it serves public safety and interest. Ms. Whitney recommended the Board support this bill.

It was m/Yaroslavsky, s/Gitnick, c/All to support this bill.

- SB 1415 (Kuehl) Medical Record Retention and Storage. This bill requires a health care provider when creating an initial patient record on or after January 1, 2009 to include a signed disclosure of the patient's right to obtain or inspect the medical records and provides record retention policies. Ms. Whitney recommended the Board support this bill.

It was m/Yaroslavsky, s/Zerunyan, c/All to support this bill.

- SB 1454 (Ridley-Thomas) Advertising, Cosmetic Surgery Standards. This bill contains several provisions related to cosmetic surgery and advertising. It requires the Board to adopt regulations on the appropriate level of supervision necessary within clinics using lasers or intense pulse light devices and requires the Board to post on its Web site a fact

sheet to educate the public on cosmetic surgery. This bill will also place as a priority, the investigation of Corporate Practice of Medicine issues. Ms. Whitney recommended the Board support this bill.

It was m/Yaroslavsky, s/Zerunyan, c/All to support this bill.

- SB 1441 (Ridley-Thomas) Task force; address standards for impaired licensees programs. This bill creates a task force to address standards for impaired licensee programs. It would specify legislative intent that the Bureau of State Audits conducts a thorough performance audit of diversion programs to evaluate the effectiveness and efficiency of the programs. Ms. Whitney recommended support if amended to require both committees to have provider expertise.

It was m/Aristeiguieta, s/Yaroslavsky, c/All to support the bill.

- SB 1526 (Perata) Polysomnographic Technologists. This bill requires the Board to adopt regulations by July 1, 2009 to establish qualifications for certified polysomnographic technologists. Ms. Whitney recommended the Board take a neutral position on this bill and assign a Board member to work with staff to discuss it with the author's office.

It was m/Yaroslavsky, s/Aristeiguieta to take a neutral position on this bill.

The Board heard public comment from:

Clete Kushida, M.D., Ph.D., California Sleep Society, spoke in support of the bill.

David Gonzalez, American Academy of Sleep Medicine, Sponsor/supports the bill.

Stephanie Nunez, Executive Officer, Respiratory Care Board, spoke in support with modifications to the bill.

Mark Goldstein, Respiratory Care Practitioner, spoke in support with modification to the bill.

Dr. Fantozzi called for the motion. The motion carried.

Dr. Fantozzi interrupted to state there is no longer a quorum of the Board. He explained the members, acting as a committee, could proceed to discuss and make recommendations to the full Board.

- SB 1579 (Calderon) Referrals for Hair Restoration. This bill would allow physicians to offer compensation to licensed barbers or cosmetologists for providing general hair restoration information or education to a client, including referring or recommending the client to a physician for consultation regarding hair restoration. Ms. Whitney recommended the Committee oppose the bill.

It was m/Yaroslavsky, s/Duruiseau, c/All to make a recommendation to the full Board to oppose this bill.

Agenda Item 20 Agenda Items for July 2008 Meeting

There were no additional future agenda items presented.

Agenda Item 27 Adjournment

There being no further business, it was M/S/C to adjourn the meeting at 2:15 p.m.



Richard Fantozzi, M.D., President

Cesar Aristeiguieta, M.D., Vice President



Barb Johnston, Executive Director