



## **DIVISION OF MEDICAL QUALITY**

**Sacramento Convention Center  
Sacramento, CA**

**April 27, 2007**

### **MINUTES**

#### **Agenda Item 1**

A quorum was present and due notice having been mailed to all interested parties, the meeting was called to order at 8:01 a.m. Members present included:

#### **Members Present:**

Cesar A. Aristeiguieta, M.D., President  
Barbara Yaroslavsky, Vice President  
Steve Alexander  
Shelton Duruisseau, Ph.D.  
Reginald Low, M.D.  
Mary L. Moran, M.D.  
Ronald L. Moy, M.D.  
Janet Salmonson, M.D.  
Ronald H. Wender, M.D.  
Frank V. Zerunyan

#### **Members Absent:**

Stephen R. Corday, M.D., Secretary  
John Chin, M.D.  
Dorene Dominguez

#### **Staff and Guests Present:**

David T. Thornton, Executive Director  
Renee Threadgill, Chief of Enforcement  
Kurt Heppler, DCA Legal Counsel  
Carlos Ramirez, Senior Assistant Attorney General  
Stephen Boreman, Deputy Attorney General  
Candis Cohen, Public Information Officer

Linda Whitney, Chief of Legislation  
Kevin Schunke, Regulation Coordinator  
Kelly Nelson, Legislative Analyst  
Paulette Romero, Associate Analyst  
Janie Cordray, Research Program Manager  
Frank Valine, Diversion Program Manager  
Camille McGee, Associate Analyst  
Richard Prouty, Staff Services Manager  
Teresa Schaeffer, Associate Analyst  
Valerie Moore, Associate Analyst  
Arlene Krysinski, Associate Analyst  
Brenda Allen, Staff Services Analyst  
Richard Acosta, Staff Services Analyst  
Laura Sweet, Area Supervisor - L.A. Metro  
Julie D'Angelo Fellmeth, Center for Public Interest Law  
Sandra Bressler, California Medical Association  
Brett Michelin, California Medical Association  
James Hay, M.D., California Medical Association  
Zennie Coughlin, Kaiser Permanente Medical Group  
Frank Lucido, M.D.  
Sashia Kim, Consultant, Senate Office of Research

**Agenda Item 2          Approval of Orders**

Approval of Orders Restoring License Following Completion of Probation

The Division reviewed and approved 12 Orders. Vote: 9-0

Approval of Orders Issuing Public Letters of Reprimand

The Division reviewed and approved 4 Orders. Vote 9-0

Approval of Orders for License Surrender During Probation/Administrative Action

The Division reviewed and approved 3 Orders. Vote 9-0

**Agenda Item 3          Approval of Minutes**

It was M/S (Salmonson/Wender) to approve the Open Session minutes of the February 2, 2007 Division Meeting. Motion carried (9-0).

**Agenda Item 4          Legislation and Pending Regulations**

No report was given.

**Agenda Item 5          Diversion Program Report**

Frank Valine, Diversion Program Administrator, provided an overview of the Diversion Committee's meeting held on April 27, 2007.

It was M/S to approve the appointment of Steven Oppenheim, M.D. as a new DEC member. Motion carried unanimously.

It was M/S to approve the appointments of Lee Snook, M.D., Barry Rosen, M.D., David Pating, M.D., Stephanie Shaner, M.D., Marvin Firestone, M.D., J.D., Thomas Ciesla, M.D., Bruce Kaldor, M.D., and Shannon Chavez, M.D. as Diversion Advisory Council members. Motion carried unanimously.

The audit of the Diversion Program has been completed and no major problems were found. The auditor's report will be released in June 2007.

The Diversion Advisory Council has been assigned the task of developing guidelines for determining when a competency examination should be ordered. A report on their findings will be presented at a future board meeting.

#### **Agenda Item 6          Division Chief's Report**

Renee Threadgill, Chief of Enforcement, reported the probation program is currently undergoing reorganization, which will result in a reduction of the assigned workload for all investigative staff and aid in the reduction of the processing time for the cases in the vertical enforcement model. The Board's current Investigator Assistant positions will be converted to an existing classification within the Department of Consumer Affairs, possibly Inspector or Field Representative, and the sworn investigators who currently monitor probationers will be transferred to the district offices and assigned active investigations.

Due to funds seized through Asset Forfeiture, the Board will hold an investigator training conference on May 15-17, 2007. Dr. Aristeiguieta, Mr. Alexander and Dr. Fantozzi have offered their support and will be in attendance.

#### **Agenda Item 6A          Medical Expert Program – Survey**

Ms. Threadgill stated the overall comments from the experts surveyed are favorable. Some suggestions for program improvement are being reviewed and ways in which to exchange more information with the experts are being developed.

After much discussion, the DMQ members directed staff to research the financial impact on the Board for increasing expert reviewers' pay; to solicit applications for expert reviewers; and to include recruitment information for medical experts in each Newsletter.

Sandra Bressler, California Medical Association, offered CMA's continued support in recruitment of new medical experts. She cautioned the Board about the potential of overusing

current medical experts.

Ms. Threadgill commented the Board continually monitors the use of the experts in order to ensure they are not being over utilized. A quarterly report on the use of the medical experts is prepared and will be made available for review.

**Agenda Item 6B      Vertical Enforcement Update/Progress Report**

Carlos Ramirez, Senior Assistant Attorney General, stated the AG's office has modified its procedure in processing cases in the vertical enforcement model to be closer to what was envisioned during the discussion leading to SB231. Cases are now being assigned to the trial deputies within 72 hours of receipt in the district offices and other locations. Problems with co-location and shared database systems exist, however, solutions on how to make the process run smoother are being sought.

It was M/S (Alexander/Wender) for staff and management to move forward with finding solutions to bring the investigators and the AG's office staff closer together to a workable vertical enforcement model. Motion carried unanimously.

**Agenda Item 7      Federal and California Appellate Decisions Pertaining to Medical Marijuana**

It was M/S (Duruissseau/Zerunyan) to move the discussion of this agenda item to the DMQ's July 2007 meeting. Motion carried unanimously.

**Agenda Item 8      Medical Errors Task Force Report**

Dr. Aristeiguieta reported a meeting with the Medical Errors Task Force and some of the stakeholders of medicine in California for information gathering is set for June 15, 2007. He stated defining exactly what a medical error is and what the Board wants to achieve are critical in determining the Board's appropriate role.

**Agenda Item 9      Oral Argument Task Force Report**

Mr. Zerunyan reported he and Dr. Aristeiguieta met with Board staff and representatives from the OAH to discuss the issues relating to the oral argument process. The task force proposed the creation of a regulation requiring the parties to file briefs with citations to the record that specifically support their argument, which will avoid the introduction of new evidence into the oral argument proceeding. Language with respect to the regulation will be drafted and presented to the Board at a future meeting.

Julie D'Angelo Fellmeth, Center for Public Interest Law and former Enforcement Monitor, suggested the Board include language requiring respondents who testify at oral arguments to be put under oath.

**Agenda Item 10 Election of Officers**

It was M/S (Duruissseau/Wender) to nominate the current panel of officers for another term.  
Motion carried unanimously.

**Agenda Item 11 Agenda Items for July 2007 Division Meeting**

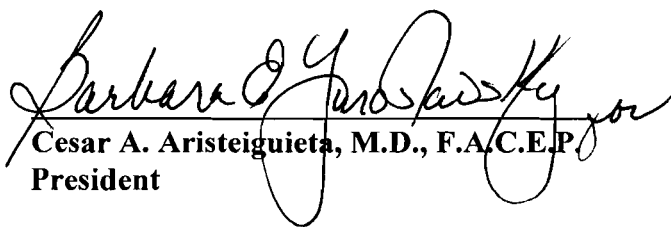
- Discussion on Practice Monitoring Condition
- Discussion on Surgical or Procedural Deficiencies
- Federal and California Appellate Decisions Pertaining to Medical Marijuana
- Medical Errors Task Force Update

**Agenda Item 12 Public Comment**

Frank Lucido, M.D. stated he continues to provide medical cannabis evaluations. He stated he has developed safe and protective standards for patients and physicians. He stated the loss of the Angel Rache case at the Appellate and Supreme Courts has not had any impact on the protection provided to physicians under Prop. 215. He further provided Mr. Thornton with the 10<sup>th</sup> anniversary edition of *O'Shaughnessy's* for review and distribution to the DMQ.

**Agenda Item 13 Adjournment**

There being no further business, the meeting was adjourned at 9:20 a.m.

  
Cesar A. Aristeiguieta, M.D., F.A.C.E.P.  
President