



MEDICAL BOARD OF CALIFORNIA



EXECUTIVE COMMITTEE MEETING

**Sheraton San Diego Hotel and Marina
1380 Harbor Island Drive / Bay Tower
San Diego, CA 92101**

Thursday, October 23, 2014

MEETING MINUTES

Due to timing for invited guests to provide their presentations, the agenda items below are listed in the order they were presented.

Members Present:

David Serrano Sewell, J.D., Chair
Michael Bishop, M.D.
Dev GnanaDev, M.D.
Sharon Levine, M.D.
Ronald Lewis, M.D.
Barbara Yaroslavsky

Members Absent:

Denise Pines

Staff Present:

Dianne Dobbs, Legal Counsel, Department of Consumer Affairs
Laura Freedman, Legal Counsel, Department of Consumer Affairs
Lou Galiano, Audio/Video Specialist, Department of Consumer Affairs
Cassandra Hockenson, Public Affairs Manager
Troy Holmes, Investigator, Department of Consumer Affairs
Kimberly Kirchmeyer, Executive Director
Armando Melendez, Business Services Officer
Jose Partida, Investigator, Department of Consumer Affairs
Regina Rao, Associate Governmental Program Analyst
Eric Ryan, Supervising Investigator I, Department of Consumer Affairs
Jennifer Simoes, Chief of Legislation
Lisa Toof, Administrative Assistant II
See Vang, Business Services Officer
Curt Worden, Chief of Licensing

Members of the Audience:

Gloria Castro, Senior Assistant Attorney General, Attorney General's Office
Yvonne Choong, California Medical Association (CMA)
Genevieve Clavreul
Zennie Coughlin, Kaiser Permanente'

Julie D'Angelo Fellmeth, Center for Public Law
 Karen Ehrlich, Licensed Midwife
 Bridget Fogarty Gramme, Center for Public Interest Law
 Jack French, Consumer's Union
 Michael Gomez, Department of Consumer Affairs
 Terry Jones, Supervising Deputy Attorney General, Attorney General's Office
 Howard Krauss, M.D.
 Carol Moss, Consumers Union
 Ty Moss, Consumers Union

Agenda Item 1 Call to Order/Roll Call

Mr. Serrano Sewell called the meeting of the Executive Committee of the Medical Board of California (Board) to order on October 23, 2014, at 1:45 p.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Public Comments on Items not on the Agenda

No public comment was heard on this agenda item.

Agenda Item 3 Approval of Minutes from the May 1, 2014 Meeting

Dr. Lewis made a motion to approve the May 1, 2014 meeting minutes as submitted; s/Ms. Yaroslavsky. Motion carried.

**Agenda Item 4 Discussion on a Compendium of Medical Board of California
 Policies**

Mr. Serrano Sewell noted at the last meeting it was recommended the Board put together a compendium of policies to be used by staff as they review initial legislation and to assist as legislation is amended during the legislative process. In some instances, these amendments may be made prior to a Board Meeting and staff will have to testify on a bill prior to the next meeting. In discussing this issue with Ms. Kirchmeyer and Ms. Simoes, it had been determined, in addition to this compendium, when bills that have a significant impact on the Board's business, Mr. Serrano Sewell will be speaking with Ms. Kirchmeyer to determine if there needs to be an interim Executive Committee Meeting to take a position on a bill prior to a legislative hearing. If an interim Executive Committee Meeting has to take place, a 10-day notice will be provided and a teleconference meeting will be held. However, on some bills, a compendium of policies would be of assistance in providing feedback on bills that come up prior to a Board meeting. This compendium has been established based upon Members' input, meetings, and internal discussions. He stated Ms. Simoes would walk through the three specific policies listed in the document included in the Board packet. Discussion today will be to provide any input into the document and if the language is agreed upon at today's meeting, the items can be taken to the full Board. Mr. Serrano Sewell added that further discussion can be had on any amendments that need to happen and can be continued at the next Executive Committee meeting, if necessary.

Mr. Serrano Sewell stated he views this compendium as a work in progress and asked his colleagues not to feel the need to take action right now. He stated these policies are important and will provide guidance to legislators and staff.

Ms. Simoes stated there are three policy areas staff is recommending the Board adopt. She stated the first policy is related to scope of practice. The Board has taken positions in the past on bills that affect scope of practice for health care practioners. These bills can be difficult to weigh the scope expansion versus the need to ensure consumer protection. In the past, the Board has both supported and opposed bills that would expand the scope of practice for other health care providers.

Ms. Simoes referred the members to page EXEC 4-2 in their packets, which is where the policies and principals begin. She stated these policies will depend on the particular language in each bill, though staff believes the policy statement could be adopted by the Board, due to the broadness of the policy, for bills that propose scope of practice expansions. She went through the statements in the policy. The first was the Department of Consumer Affairs (DCA), the Board and other health care boards at DCA are duty bound to foremost protect and serve California consumers. The second was protecting and serving health care consumers requires that DCA and other health care boards assure that California consumers are: a) evaluated and managed by California licensees practicing within their scope of practice, as defined by law and regulation; b) evaluated and managed by licensees who are in compliance with all applicable federal, state and local laws and regulations; c) evaluated and managed by competent licensees, practicing within community standards of care; d) entitled to be evaluated and managed in accordance with the highest standard of care applicable to any of the licensed or certified practioners. The third was that the Board hold that all California consumers should know the background, training, education, certification and history of disciplinary actions of any health care provider they may consider seeing. The fourth was the Board recommends that any legislatively-proposed expansion of scope of practice include criteria to be met regarding education, training, certification, and continuing oversight of any practioners who obtain expanded scope. Primarily, consumers must be protected, and any proposed scope expansion must assure adequate mechanisms and oversight to reduce patient risk of harm. She stated that care provided to patients in California should be of the same quality, regardless of who is providing the care.

Dr. Levine recommended adding the word “proctor” in the first sentence of the fourth statement between the words, “training,” and “certification.”

Mr. Serrano Sewell thanked Dr. Krauss for his contributions in this process, as he was extremely helpful in guiding the internal discussions that were had while putting this document together.

Ms. Yaroslavky made a motion to present this policy to the full Board as written with Dr. Levine’s suggested addition/s: Dr. GnanaDev.

Yvonne Choong, CMA, stated they have no problem with any of the policy statements themselves, and CMA does a policy compendium as well as does the American Medical Association. She recommended that the compendium be put on calendar for an annual review as laws change and it should be kept as current as possible.

Motion carried.

Ms. Simoes continued with the next policy, continuing medical education (CME). She stated there are many bills that initially propose requiring mandatory CME in a specific area. Due to the Board's history in opposing these types of bills, she always advises the legislative offices that the Board will likely oppose mandatory CME. Many times the author's office decides to include language instead that would encourage physicians take a certain type of CME or encourage the Board to set specific standards.

The policy statement recommendation is for the Board to oppose the concept of mandating specific CME topics. She added the Board believes that each licensed physician should decide which type of CME is most appropriate for their particular practice.

Dr. Lewis made a motion to accept the policy statement recommendation/s: Dr. GnanaDev.

Karen Ehrlich, Licensed Midwife, stated based on what was heard this morning from the African American representatives; it seems that something about cultural competency, which would span all specialties, should be included.

Motion carried.

Ms. Simoes continued with the next policy, funding for physician education. The Board has routinely supported bills that provided additional funding for the practice of medicine. This includes bills that improve or provide more funding for loan programs, provide more funding for medical schools, and provide funding for additional residency positions. When these types of bills are introduced, she advises the author's office that the Board will likely be in support of additional funding. The policy statement recommendation is the Board supports additional funding for physician education, including funding for additional residency positions, funding for medical schools in California, and funding for loan programs, including the Steven M. Thompson Loan Repayment Program.

Dr. GnanaDev made a motion to accept the policy recommendation as written/s: Dr. Lewis.

Dr. Levine stated Federal funding for residency slots comes from Medi-Care funding. The number of slots was frozen in 1997 with the Balanced Budget Act. Subsequent to that, many new residency positions have been created from different sources of funding and she feels this is an appropriate policy statement for the Board.

Dr. Bishop expressed his concern based on the recent legislation where the physicians bore the burden of funding the improvement to the Controlled Substance Utilization Review and Evaluation System (CURES), which he feels is inequitable. He feels that adopting a policy such as this may result in the physicians being the ones being taxed.

Dr. GnanaDev stated he understands Dr. Bishop's concerns and California is in bad shape when it comes to access to care. New York, which has half of the population of California has 13 medical

schools, yet California, which has twice the population, only has 9 medical schools, so funding needs to be found other places and not just on the physician side.

Motion carried (5-1, Bishop).

Agenda Item 5 Review of Current Committees, Task Forces, and Sub Committees

Mr. Serrano Sewell stated in the Board's strategic plan, every other October the Board should review the listing of committees to determine the necessity of the committee, its roles, and whether the committee needs to continue or can be eliminated. In August, Mr. Serrano Sewell met with Ms. Kirchmeyer to discuss the Board's committees. The recommendations from the meeting are listed on pages EXEC 5-1 to EXEC 5-5. On pages, EXEC 5-6 to EXEC 5-16 there is a document that identifies the current committees with their roles, membership, and issues. The main goal of reviewing the Board's committees is to find efficiencies, assist with time commitments for Members, and to increase output from the committees.

Mr. Serrano Sewell noted, it is recommended that the Board keep Enforcement, Licensing, Education and Wellness, and Executive Committees as standing committees and continue them for the next two years. For the Executive Committee Members, it is recommended that it be made up of the Board Officers – President, Vice President, and Secretary; the immediate Past President; and the Chairs of Enforcement, Licensing, and Education and Wellness Committees.

There are several committees that are required by law, and the recommendation is to keep those committees – the Specialty Faculty Permit Review Committee, the Midwifery Advisory Council, the Application Review Committee, and the Special Programs Committee. Mr. Serrano Sewell stated it is recommended that the Application Review and Special Programs Committees be combined. The duties and functions of these committees are very similar and there is no requirement to keep them separate, just that the Board have a committee to discuss applications and special program applications, when needed.

Mr. Serrano Sewell noted in the documents in this section, the recommendation is to eliminate the Access to Care/Cultural and Linguistic Competency Committee and its Subcommittee. The Committee has not met in several years and there has been no need to have the Committee. The role of this Committee, which was to find ways to improve access to care and to hear an update on the cultural and linguistic competency in CME, can be put into the Licensing Committee and the Education and Wellness Committee.

The Committee on Physician Supervisory Responsibilities is another Committee that has completed its main purposes. However, this Committee has brought up other issues that can be placed in either the Enforcement or the Licensing Committees, as appropriate. If additional discussions need to be had on an issue, it is better done at an interested parties meeting rather than within this Committee. The issue can then be brought back to the appropriate standing committee, Licensing or Enforcement, for appropriate action before going to the full Board.

Lastly, Mr. Serrano Sewell recommended that the Board eliminate the subcommittees and task forces with the exception of the Prescribing Task Force, which has continued responsibilities

pertaining to prescribing practices. This two-Member task force allows staff to work with the Members and hold interested parties meetings. The information is then brought to the full board for discussion and possible action.

Mr. Serrano Sewell stated the purpose of this change is to increase the output of the committees, realizing that time is valuable, and to expand the scope of authority with each of the remaining committees that would be in place for the next two years.

Ms. Yaroslavsky made a motion to approve the committee changes as indicated in the Board packet/s: Dr. Lewis. Motion carried.

Agenda Item 6 Update on Strategic Plan

Ms. Kirchmeyer referred the Members to pages EXEC 6-1 through EXEC 6-21. She stated, these pages include an update on the Board's new strategic plan. The document has been color coded for easier reference, and there is a section where the status of the objective is listed. With the new strategic plan, several items identify something that has to happen each quarter or monthly. Board staff will identify that an objective has been completed by highlighting the date column in green. If something was unable to be completed, the date column will be red. If an objective is still being worked on, the date column will be yellow.

Ms. Kirchmeyer noted, the majority of the items in red in the packet are due to the Board's inability to run enforcement reports from the BreZE system. The ISB staff continues to work on some reports and with DCA on others to get the reports finalized. Other items are red due to a lack of resources. Several key positions have been vacant, including the Deputy Director and a Chief of Enforcement, which will assist with some of the special projects. Board staff is assisting with those special projects that would normally be done by those positions. These objectives will be worked on in the next quarter to be sure goals are met.

Ms. Kirchmeyer stated she would appreciate feedback from the Members on the new layout of the strategic plan.

Dr. Levine suggested on EXEC 6-15; Goal 4.1c, adding the Senate and Assembly Health Committees. She noted many of the issues that come before the Board as legislation often come from or to the Health Committees, so she feels that it is important for those committees to understand the Board's function. She also noted in Goal 4.2b, she feels there may be a better way to reach a larger audience of stakeholders. It seems going hospital by hospital is a bit tedious for both the Board's public information staff as well as the Board Members. All stakeholder communities have associations that meet in informational sessions. The associations could carry the Board's message to those sessions, which would reach a much larger audience.

Agenda Item 7 Future Agenda Items

Ms. Yaroslavsky suggested a budget update at the next meeting.

Agenda Item 8 Annual Evaluation of the Executive Director

Adjourned to Closed Session at 2:35 p.m.

Returned from Closed Session at 3:13 p.m. for adjournment.

Agenda Item 9 Adjournment

With no further questions or comments from the Members or the public, the meeting was adjourned at 3:15 p.m.