

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: October 9, 2013
ATTENTION: Medical Board of California
SUBJECT: Outpatient Surgery Settings Task Force
STAFF CONTACT: Curtis J. Worden, Chief of Licensing

RECOMMENDED ACTION:

- 1) Authorize staff to hold an interested parties' meeting regarding proposed changes to statutes and regulations impacting accredited Outpatient Surgery Settings (OSS).
- 2) After the interested parties' meeting, authorize the OSS Task Force members to direct staff to draft proposed language to amend current Health and Safety Code statutes regarding OSSs to improve consumer protection.
- 3) After the interested parties meeting, authorize the OSS Task Force members to direct staff to draft proposed language to amend existing regulations and/or draft new regulations within the California Code of Regulations, Title 16, Division 13, to further clarify existing and/or new statutes pertaining to OSSs.

OUTPATIENT SURGERY SETTINGS – TASK FORCE MEMBERS:

Dev GnanaDev, M.D.
David Serrano Sewell, J.D.

OUTPATIENT SURGERY SETTINGS – TASK FORCE UPDATE:

The OSS Task Force members met with the following Board staff: Kimberly Kirchmeyer, Interim Executive Director; Curtis Worden, Chief of Licensing; and Kerrie Webb, Staff Counsel, on September 30, 2013. The purpose of the meeting was to review proposed changes to the Board's Web site and review current statutes and regulations to identify sections that could be amended to improve consumer protection.

The Task Force members reviewed staff's proposed changes to the Board's Web site regarding OSSs that are required to be accredited by a Board-approved Accreditation Agency. The Task Force members made some suggestions to provide further clarity on the first page of the OSS Web page. Staff is working on these recommendations.

The Task Force members reviewed Health and Safety Code (HSC) §1248.15 and identified some subsections that may need to be revised through a statute change and/or clarified through regulations. The Task Force members recommended deleting the least stringent method of qualifying for accreditation, since this method of qualification does not provide adequate consumer protection. This would also require an amendment to the subsection that references this method of qualification.

The Task Force reviewed HSC §1248.2 through §1248.3, and determined these statutes do not require amendments at this time.

The Task Force reviewed HSC §1248.35, and identified some subsections that may need to be revised through a statute change and/or clarified through regulations. The Task Force members are recommending unannounced inspections of the OSSs.

The Task Force reviewed HSC §1248.4 through §1248.5, and determined these statutes do not require amendments at this time.

The Task Force reviewed Business and Professions Code (BPC) §2216, and determined this statute does not require amendments at this time.

The Task Force reviewed California Code of Regulations, Title 16, Division 13, §1313.2 through §1313.3, and determined these sections do not require amendments at this time.

The Task Force reviewed California Code of Regulations, Title 16, Division 13, §1313.4, and determined that two of the subsections are no longer valid as a result of recent statute changes. This section needs to be amended accordingly.

The Task Force is also considering requiring the initial accreditation of an OSS to be for no more than two years. Currently, initial accreditation could be for up to three years. This would require a statute and/or regulatory change.

The Task Force identified that consumer protection may be enhanced if all accredited OSSs have mandatory peer review of procedures performed, regardless of how many practitioners are at an OSS and/or how many procedures are performed, including an OSS used by a single practitioner.

The Task Force plans to fully vet these proposed changes by holding an interested parties' meeting.