



MEDICAL BOARD OF CALIFORNIA
Executive Office



Access to Care Committee
Embassy Suites - San Francisco Airport
150 Anza Blvd
Burlingame, CA 94010
January 28, 2010
MINUTES

Agenda Item 1. Call to Order

Dr. Gitnick called the meeting to order at 3:40 pm. Roll was taken and a quorum was present. Notice had been sent to all interested parties.

Members present:

Gary Gitnick, M.D., Chair
Hedy Chang
Shelton Duruisseau, Ph.D.
Barbara Yaroslavsky
Frank V. Zerunyan, J.D.

Members absent:

Gerrie Schipske, R.N.P., J.D.

Board Members, Staff and Guests Present:

Armando Melendez, Business Services Office
Barb Johnston, Executive Director
Betsy Couch, Center for Public Interest Law
Brett Michelin, California Medical Association
Brian Ansay, Enforcement Program
Candis Cohen, Board's Public Information Officer
Cheryl Thompson, Executive Assistant
Cindi Oseto, Licensing Special Programs Analyst
Deborah Pellegrini, Chief of Licensing
Gary Nye, M.D., Alameda/Contra Costa Medical Association
Greg Santiago, Dept. of Consumer Affairs
Janet Salomonson, M.D., Board Member
Jim Conway, Pacific Assistance Group
Jim Hay, MD, California Medical Association
Joy Mobley, Member of the Public
Julie D'Angelo Fellmuth, Center for Public Interest Law
Kathryn Taylor, Licensing Program Manager
Kurt Heppler, Staff Counsel, Dept. of Consumer Affairs
Linda Whiney, Chief of Legislation
Margaret Montgomery, Kaiser Permanente
Nancy Peverini, Consumer Attorneys of California
Paulette Romero, Manager, Central Complaint Unit
Peter Moskowitz, M.D., Center for Professional and Personal Renewal
Regina Rao, Business Services Office
Rehan Sheikh, Member of the Public
Renee Threadgill, Chief of Enforcement

Board Members, Staff and Guests Present (continued):

Ross Locke, Business Services Office
Sharon Levine, M.D., Board Member
Susan Thadani, Enforcement Program
Teri Hunley, Business Services Office
Thomas Schmitz, various East Bay free clinics
Yvonne Choong, California Medical Association

Agenda Item 2. Report and Discussion on the January 13, 2010 Meeting of the Malpractice Study Task Force – Mr. Zerunyan

Agenda Item 3. Discussion and Consideration of the Task Force's Recommendation to the Access to Care Committee; Possible Recommendation to Full Board – Mr. Zerunyan

[These two agenda items were discussed concurrently.]

Mr. Zerunyan summarized the history of AB 2342 (Nakanishi; Chap. 276, Stats. of 2006), which added Business and Professions Code section 2023 and required the Medical Board of California (Board) to study the issue of providing medical malpractice insurance for physicians and surgeons who provide voluntary unpaid services to medically underserved populations in California. The study was to include, but not be limited to, the cost and process of administering such a program, options for providing medical malpractice insurance and how the coverage could be funded.

Mr. Zerunyan summarized recent meetings on this issue:

On September 2, 2009, the Medical Board held a Malpractice Study Interested Parties meeting which allowed all interested stakeholders to hear directly from the report writer, ask questions, and give feedback on ways we can move forward with this issue. The minutes from that meeting are attached.

On October 29, 2009, staff was directed by the Access to Care Committee and the full Board to establish a Malpractice Study Task Force. The Task Force was asked to solicit public comments, discuss the issues and recommendations of the Malpractice Study, and to determine if legislation is appropriate. Individuals from the following groups would be selected to serve on the Task Force:

- Access to Care Committee – a public and a physician member
- Liability Insurers
- California Medical Association
- California Hospital Association

A meeting of the Task Force was convened in Los Angeles on January 13, 2010. Over twenty persons attended the meeting, including several physicians who provide volunteer services and representatives of clinics that would benefit from the services of volunteer physicians. After receiving public input from attendees, the Task Force members entered into an in-depth discussion of the various options presented (including programs administered in Arizona, Florida, and the state of Washington), not only considering the pros and cons, but also the viability of each in California.

On behalf of the Task Force, Mr. Zerunyan moved and Ms. Yaroslavsky seconded that the Access to Care Committee should adopt the Task Force's recommendation and recommend to the full Board, that the Medical Board sponsor or seek others with whom to co-sponsor legislation to enact a "State Actor-Sovereign Immunity" model similar to that which is used in Florida, a program under which a physician volunteer would be considered a state employee when providing uncompensated care. The Task Force also requests that interested parties share their supporting ideas and make their concerns known to the Board at the earliest opportunity, as to the following elements, which remain unresolved but need to be addressed in the final version of any legislation:

1. Funding
2. Administration of the proposed program
3. Operational issues
4. Claimant issues
5. Coverage

Dr. Thomas Schmitz, a member of the public, addressed the committee on behalf of several free clinics with which he is affiliated in the San Francisco East Bay. He indicated that he supported the model used in Florida, although he also pointed out that a similar program is used in Wisconsin, which offers coverage to about 800 or 900 health care providers – not just physicians, but also nurses and others.

Nancy Peverini, representing Consumer Attorneys of California, stated she did not support any system which provided a two-tier level of health care nor a two-tier level of malpractice/legal actions to which patients could avail themselves. She said that her organization supported the concept of a volunteer physician program so long as the remedies for all patients were equal.

Dr. Gitnick said he would speak more thoroughly to the full Board tomorrow, but he was aware that there were divergent thoughts about the difference in supposed levels of care for those who had adequate coverage versus underserved populations. He also stated his opinion that the state could decrease long-term costs by administering a program providing malpractice coverage for volunteer physicians instead of waiting until those patients might become more seriously ill and the costs of a severe illness would need to be borne by a public assistance program.

Dr. Hay, representing the California Medical Association, said they supported the concept being discussed by the committee and they were already working on proposed legislation.

The motion carried.

Agenda Item 4. Public Comment on Items not on the Agenda

There was no discussion.

Agenda Item 5. Adjournment

M/S/C Dr. Duruisseau/Mr. Zerunyan to adjourn.