

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: September 29, 2009
 DEPARTMENT: Executive Office
 SUBJECT: Malpractice Study – Interested Parties Meeting
 STAFF CONTACT: Abbie French

REQUESTED ACTION:

- Establish a special advisory committee to discuss possible legislative solutions in regards to the malpractice study.
- Approve a committee consisting of five to eight individuals.

STAFF RECOMMENDATION:

Staff recommends that you establish a special advisory committee to discuss the report on Malpractice Insurance for Physicians Providing Voluntary, Unpaid Service. This committee would determine if legislation is appropriate and if so, develop language to propose to the Board at a future meeting. The Board could then determine if the drafted language will be board sponsored or passed on to a legislative member who could propose legislation on this issue.

Staff recommends that you establish a five to eight member advisory committee to address the issues and recommendations of the report. Each individual who is chosen to be on the advisory committee should be ready to meet in January 2010. We unfortunately cannot meet sooner due to the Medical Board's licensing backlog situation. Staff suggests that the following interested parties select an individual to represent their business on the advisory committee:

- Access to Care Committee – public and physician member (2 individuals)
- Liability Insurers
- California Medical Association
- California Hospital Association

The Medical Board will allocate a Project Manager and an Attorney to support this committee.

EXECUTIVE SUMMARY:

Section 2023 of the Business and Professions Code requires the Board to study the issue of providing medical malpractice insurance to physicians and surgeons who provide voluntary, unpaid services to patients in medically underserved or critical need population areas of the state.

MBC contracted with UC Davis to perform this study and on December 31, 2008, the report was received. We submitted the report to the Legislature in January 2009. This study identified the following three models for liability protection that could possibly be used in this state:

- Enactment of immunity statutes in which the provider is not liable for common negligence, but only gross negligence or willful misconduct.
- Enactment of immunity statutes in which, under circumstances prescribed by the state, a physician volunteer would be considered a state employee when providing uncompensated care.
- A State-established malpractice insurance program in which the state either purchases insurance for physician volunteers or establishes a self-insured pool.

FISCAL CONSIDERATIONS:

To be determined.

PREVIOUS MBC AND/OR COMMITTEE ACTION:

At the January 2009 Access to Care meeting, highlights of the report were discussed and both the committee and full board recommended that a meeting of interested parties be convened to discuss the study and determine the best implementation of this report. This interested parties meeting was held on September 2, 2009 and details of what happened at that meeting have been discussed with you today (Agenda Item #4).