



**MEDICAL BOARD OF CALIFORNIA**  
**Executive Office**



**EXECUTIVE COMMITTEE**

**Embassy Suites  
San Francisco Airport  
150 Anza Boulevard  
Burlingame, CA 94010**

**Thursday  
January 31, 2013  
(Approved April 5, 2013)  
MEETING MINUTES**

**Agenda Item 1 - Call to Order/Roll Call**

The Executive Committee of the Medical Board of California was called to order by Sharon Levine, M.D. was called to order at 2:45 p.m. on Thursday, January 31, 2013. Due notice was provided to all interested parties.

**Members Present:**

Sharon Levine, M.D., President  
Silvia Diego, M.D., Secretary  
Reginald Low, M.D.  
Janet Solomonson, M.D.  
Barbara Yaroslavsky, Past President

**Staff Present:**

Armando Melendez, Business Services Staff  
Curt Worden, Chief of Licensing  
Diane Dobbs, Legal Counsel, Department of Consumer Affairs  
Doreathea Johnson, Department of Consumer Affairs  
Jennifer Simoes, Chief of Legislation  
Kevin Schunke, Outreach Program Manager  
Kimberly Kirchmeyer, Deputy Director  
Kurt Heppler, Legal Counsel  
Laura Sweet, Deputy Chief of Enforcement  
Linda Whitney, Executive Director  
Lisa Toof, Administrative Assistant II  
Natalie Low, Licensing Manager  
Regina Rao, Business Services Staff  
Renee Threadgill, Chief of Enforcement  
Susan Cady, Central Complaint Unit Manager  
Tim Einer, Administrative Assistant II  
Tracy Tu, Senior Investigator

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### **Members of the Audience:**

Carrie Sparrevohn, Midwifery Advisory Council  
GV Ayers, Senate B&P  
Hank Dempsey, Senate B&P  
Jack French, Consumers Union  
Jane Zack Simon  
Julie d'Angelo Fellmeth, CPIL  
Karen Erlich, Midwifery Advisory Council  
Kristin Chambers, California Medical Association  
Teresa Anderson, CAPA  
Terry Jones, Supervising Deputy Attorney General  
Tess Winn, CPIL  
Tina Manasian, Consumers Union  
William Perry, PhD  
Yvonne Chong, California Medical Association  
Zennie Coughlin, Kaiser Permanente'

### **Agenda Item 2 - Public Comments on Items not on the Agenda**

There were no public comments.

### **Agenda Item 3 - Approval of Minutes from the September 19, 2012 Meeting**

*Dr. Levine made a motion to approve the minutes from the September 19, 2012 meeting; s/Low; motion carried.*

### **Agenda Item 4 - Report on How Consumer Protection Enforcement Initiative Positions are Being Allocated - Ms. Kirkmeyer**

Ms. Kirkmeyer provided a detailed update on positions under the Consumer Protection Enforcement Initiative (CPEI) including background. There were several negative articles regarding the Board of Registered Nursing in 2009 regarding the length of time for the enforcement process. As a result of those articles the Department of Consumer Affairs (DCA) submitted a budget change proposal (BCP) for additional positions for all healing arts boards. As a result of that BCP the Medical Board of California (Board) received 22.5 positions in fiscal year 10/11. Two and a half positions were to assist with Board of Psychology and the Osteopathic Medical Board investigations. Those positions were subsequently transferred to those boards leaving the Medical Board with 20 positions. The Board filled two positions in order to assist with the complaint triage and the upfront review. During fiscal year 10/11, the Board had to decrease its positions due to a workforce cap so the Board gave up 2.5 of the CPEI positions resulting in 15.5 positions that still needed to be filled. The staff identified how to implement these positions, but the hiring freeze began. The hiring freeze was lifted in November, 2011 and then in early 2012 the Board was notified that it had to reduce its positions by 18.1 positions due to the salary savings elimination. The Board chose to give up 15.5 vacant CPEI positions rather than eliminating any existing staff positions. In September 2012 the Board was notified that it could fill these positions as long as the board maintains a 5% vacancy rate. Now the Board is in the process of filling those positions and has met and discussed where those positions should be placed.

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The Board is going to establish a Northern California Operations Safe Medicine Unit identical to the one in Southern California. The unit will be made up of four Investigators, one clerical staff and one supervising investigator. By establishing this unit the unlicensed cases currently being performed by the investigators in the northern district offices will be transferred to this unit. This will reduce the northern California investigator workloads and allow them to process the case more expeditiously. The Board will also add an investigator to the Tustin and Rancho Cucamonga offices to bring them to six investigators in each office identical to the other district offices. Again this will reduce the caseloads and expedite the investigative process.

Two positions will be added to the Board's expert reviewer program to assist in expert retraining and recruitment. Three positions will be added to the Central Complaint Unit to assist in the quality of care unit, the discipline coordination unit and provide clerical support. One and a half positions will be used to conduct malpractice desk investigations. These 1.5 positions will perform the review and workup on these cases thus eliminating the need for transmission to the district offices. The ultimate goal is to expedite triage review and to reduce the workload in the district offices. All but 4.5 of these positions have been advertised and are pending final approval from the DCA in the recruitment process. The other 4.5 positions should be advertised by the end of February. The overall goal is to reduce the time it takes to investigate a complaint alleging a physician is in violation of the law.

Dr. Salomonson asked whether the Osteopathic Medical Board and the Board of Psychology investigations: have a complete independent investigation staff, and if so what is the interface with the Board.

Ms. Kirchmeyer responded that when these positions were originally proposed, DCA had a broad BCP. The Board of Psychology and Osteopathic Medical Board determined those positions should be housed with them and not part of the Medical Board's staff.

Dr. Levine asked Ms. Kirchmeyer to explain the difference between a sworn investigator and a non-sworn investigator. Ms. Kirchmeyer stated that a sworn investigator is an individual who is a peace officer identified under the Penal Code. These officers have the rights of a peace officer such as making arrests, obtaining search warrants, carrying a weapon, etc. A non-sworn investigator does more of the desk investigation such as obtaining medical records, telephone interviews working in a headquarters' office, and doing more of the paper trail investigation.

### **Agenda Item 5 - Review and potential revisions to Board Administrative Manual**

Ms. Kirchmeyer discussed the edits that had been made in the manual based on comments from the Board Members and items that staff had been requested to include. Since the Board has begun webcasting its meetings, an update was needed to that section.

Ms. Kirchmeyer stated that the major edits were made to the election of officers section and panel members section. Based upon a request from members, a section was added outlining the role of Board officers, Committee chairs and Panel officers. Also added was a section outlining Board

Members' responsibilities. This document is provided during the DCA Board Member orientation and should be added to the Board's manual.

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Mr. Heppler requested that Item 4 on page 77 should read – public shall be requested to complete the speaker request. It has been pointed out that there is no mandatory requirement to complete one. The Board does this to maintain a record for the minutes.

Dr. Levine requested that in the section for the role of the Board President, a statement be added to include other meetings such as the Federation of State Medical Boards, etc.

Ms. Kirchmeyer asked for a motion to accept the edits in the supplied documents as well as the ones recently identified here prior to moving into the next agenda items.

*Dr. Low made a motion; s/Yaroslavsky; motion carried.*

### **Agenda Item 5A - Roles of Members Upon Media Inquiry**

Ms. Kirchmeyer moved into Agenda Item 5A discussing the roles of the members when contacted by the media.

Several Committee Members expressed concerns about the proper way to address media and the public who ask to speak to a board member about certain issues. Members are not certain which type of questions they should refer back to the Executive Director or the Boards public information office, etc. It was discussed that perhaps the board members who wish to speak to media or the public be sure and state clearly that they are not speaking on behalf of the Board, but on their own behalf. Dr. Levine asked if the Committee Members were comfortable with doing things that way and/or whether there should be any constraints on Board Members from responding to a media inquiry with the understanding of the kinds of communication that should not happen.

After discussion between Board Members and staff about what the Board Members role is upon media inquiry's and how to handle them. However, Dr. Levine requested that this be agendized again with a process to identify how to handle media contacts.

Ms. Kirchmeyer clarified that the current policy is when the members get a call from the press to refer the call to staff and this will be outlined in the manual.

### **Agenda Item 5B - Meetings with the Public and Interested Parties**

Ms. Kirchmeyer stated there have been recent discussions where individuals had wanted to meet with individual Board Members. After discussions among legal staff and Board Members, it was determined that the Board Members are free to speak with members of the public as long as it is clear that comments that are made are personal ones and not as an official position of the Board.

Dr. Levine requested that the staff prepare guidelines for communication with interested parties for more clarification and discuss the guidelines at the next Committee Meeting.

Public Comment was received for this agenda item.

Tina Manasian brought to the Board's attention an incident that took place at a doctor's office. She was not sure how to handle the situation and called the Board. She was told to file a complaint. She

did not understand why she was told to file a complaint. Ms. Whitney responded that a complaint was needed so the Board would have the matter on record, including the doctor's name and issue so it could be reviewed.

**Agenda Item 5C - Providing Written Comments to the Board**

Mr. Heppler requested that the Board consider establishing a policy on how to handle written comments received on agenda items.

Public Comment was received for this agenda item.

Jack French spoke on behalf of Consumers' Union Safe Patient Project. He expressed his concerns with how members of the public have found barriers to communicate with the Board Members. He offered some recommendations on how the Board might offer more communication options.

He urged the Board to make clear and prominent on its Web site the opportunities and rules for public participation in Board meetings including how to submit written testimony to Board Members.

After discussion, Dr. Levine asked that this be brought back to the next meeting with staff providing options on how to handle these types of comments.

**Agenda Item 6 - Update on Strategic Plan**

Ms. Kirchmeyer provided a brief update on the status of the Strategic Plan objectives. The objectives that did not have current or past due dates have not been included in this update as they will be included in the update when they are due. The Chiefs of Licensing, Enforcement and Legislation will continue to update their items at their committee meetings or during their program updates. Referring to the report at the September Executive Committee Meeting many deadlines were extended due to the work being performed on the Sunset Review and the Breeze project. Several of the objectives will be dependent upon the issues that have been presented in the sunset review report and whether legislation is drafted. Staff will be monitoring the Sunset Review process in comparison to the Board strategic plan and will see what items need to move forward after the Sunset Review hearings and legislation is drafted. All other objectives are on target for completion or have been completed as indicated in the status column.

Dr. Levine requested that staff lay out a time line of these objectives.

Ms. Kirchmeyer agreed to create that time line and present it to Members at the next meeting.

Ms. Kirchmeyer concluded her report and reminded Members that updates will continue to be provided at each Executive Committee meeting.

**Agenda Item 7 - Adjournment**

***Dr. Levine made a motion to adjourn; s/Salomonson; motion carried. The meeting was adjourned at 3:40 pm.***