

Medical Board of California Expert Reviewer Podcast

The Medical Board of California is committed to consumer protection through the licensing and regulation of doctors and certain allied healthcare professionals.

CARLOS VILLATORO (CV): My name is Carlos Villatoro and this is Medical Board Chat the official podcast of the Medical Board of California. The Board's Expert Reviewer Program is a critical component of the Board's Enforcement Program. The Board relies heavily on expert reviewers to make their cases. Today we will be talking to three members of the Board's Enforcement Unit, who will tell you a little bit about the Board's Enforcement Program. First off, we have Dr. Jim Nuovo, who is our chief medical consultant. We have Laura Sweet, who is a member of our enforcement unit and who helped develop the Expert Reviewer Training Program. Lastly, we have Jenna Jones who is our Chief of Enforcement. Welcome to Medical Board Chat.

LAURA SWEET (LS): Great to be here.

JENNA JONES (JJ): Thank you Carlos.

CV: So Jenna tell us what is the Expert Reviewer Program and why is it important to the Board?

JJ: Carlos that's a great question and you did a really wonderful introduction because it is a key, crucial part of the whole process of investigating complaints against physicians. The reviewer program is necessary because before a case can move forward for an accusation, it must first be reviewed by an expert and that expert must determine that there were departures made by the treating physician or the physician is being investigated. Those departures can be of a simple version or an extreme version and it's based on that report that the accusation moves forward with the Attorney General's Office.

CV: As I mentioned before, that is an all-important part of the enforcement program without these expert reviewer programs the Board's cases don't move forward. Especially when it comes to quality of care cases is that correct?

JJ: Absolutely, that is the crux of the entire case.

CV: So Dr. Nuovo can you please tell me who can be an expert reviewer and what specialties is the Board looking to recruit?

DR. JIM NUOVO (JN): Well, there are criteria for who can be an expert reviewer for the Medical Board. In general, you have to be licensed in California it's best to be board certified in your specialty. Given the nature of complaints that come to the Board virtually every specialty needs to be represented by an expert reviewer and essentially looking for someone who can provide an independent, unbiased review of the kind of complaints that come forward to the Medical Board.

CV: Laura how are you doing?

LS: I'm doing great how are you?

CV: Well that's great that's good to hear Laura. Are there any specialties that the Board is really interested in obtaining?

LS: Yes. We are very short on neurosurgeons and addiction medicine specialists, psychiatrists who are willing to undertake the mental examinations right now are in demand. Those are the primary ones.

CV: But the Board will accept any specialty to become an expert reviewer.

LS: Oh absolutely. We are always looking for experts. Ideally, we are looking for peer reviewers. Experts are independent peer reviewers. So the more, the better. The cases progress faster if we have a larger expert pool.

CV: So Jenna can you tell us what the criteria is for a physician who is interested in this program to become an expert viewer?

JJ: Sure so one of the first requirements is that they possess a current California medical license and it needs to be in good standing, no prior discipline, no accusations pending, no complaint history within the past three years. The next thing is they need to be board certified by one of the 24 ABMS specialties and those are listed on the website but the other thing is they need to have an active practice.

CV: What is an active practice?

JJ: It's defined as at least 80 hours a month in direct patient care, clinical activity or teaching – at least 40 of which are in the area of direct patient care. And one of the biggest things is they must be willing to testify. If this case goes to hearing they need to be available to testify in the hearing. They'll be prepared for the hearing by the deputy attorney generals, but they've got to be available and willing to travel if necessary for that. Usually, the case is going to be in their area, but they are going to have to be available. The attorney generals work with them on their scheduling and those kind of things. But they also receive reimbursement or payment for attending that hearing.

CV: That was going to be my next question.

JJ: They do, they get paid for testifying. They get paid for participating in the hearing.

CV: What can someone expect when becoming an expert reviewer?

LS: Well, a physician can expect to review documents. So typically what happens is a case is investigated by a sworn peace officer investigator or non-sworn investigator and they will collect evidence and information, medical records, they'll conduct interviews and the expert reviewer is charged with poring through those documents and information and determining whether or not the standard of care has been met or breached. So some cases can be super voluminous, to be quite honest, they may contain quite a bit of medical information, and some cases are pretty straightforward. So an investigator would contact and expert prior to them accepting the responsibility to review a case to describe what the case is about, describe the amount of materials to be reviewed. There's an entire checklist that the expert reviewer would go through before accepting a case.

CV: Would that include reviewing a patient's medical record?

LS: Correct. Medical records, interview transcripts, transcripts of the interview with the subject physician, any data that enables the expert to decide if the standard of care has been met or breached. So the expert reviewer can even ask for additional information if the investigator has not procured it. They can actually contact the investigator and say 'Hey, I need A, B and C in order to make a decision regarding this case.'

CV: So Laura can you tell me if there's anything else that expert reviewers do besides review cases?

LS: There are occasions when we ask our experts to actually physically or mentally examine a physician to determine whether or not they are safe to practice medicine without restrictions. And in those situations a psychiatrist or family medicine or internal medicine physician will actually conduct an evaluation of the subject physician. And in those cases they're able to charge their usual and customary fee in order to accomplish that.

CV: And Dr. Nuovo has been in those shoes as one of the Board's expert reviewers is that correct Dr. Nuovo?

JN: It is, I have been helping the Medical Board for about 27 years now.

CV: So you, as a physician who has been an expert reviewer for the Board, what can a physician – what does a physician get out of becoming an expert reviewer?

JN: Oh really, you know, each case that comes to the Medical Board for review has an important question – was the physician providing standard of care treatment to a particular patient? And that's really what the role of the expert reviewer is. Is to take a look at the complaint or the concern that came forward, review all the relevant information, produce a report and come up with a conclusion as to whether whatever happened, whatever the nature of the complaint, was the treatment provided consistent with the standard of care?

CV: Are there any benefits to you personally of being an expert reviewer?

JN: Well there's a satisfaction of knowing that you're helping make a difference – that the Board, the state, patients need to have independent physicians willing to review information and come up with a judgment as to what occurred in this case. Was it unusual? Was there something that was deficient in the physician who is providing care? And was the outcome that occurred – was it something that was just a departure of the standard of care? Is there something that happens?

CV: Well it's a service also to the people of California, the consumers that the Board works for essentially. But this is not a free service provided by physicians is that correct? Do physicians get some kind of compensation for this?

LS: Yes they do. They get compensated if they have attended the training and have provided a sample report they receive \$200 per hour for reviewing records and writing reports. And additional compensation if they are required to testify and at some point we want all of our experts to undergo the training. However, some experts have not yet attended the training so they receive a lesser amount of \$150.

CV: And that amount recently changed is that correct?

LS: Correct so it went from \$150 for those who are not trained to \$200 per hour for those who have attended the training and provided an adequate sample report.

CV: Doctor Nuovo, what's the time commitment? How much time can a physician expect to work on a case for the Board?

JN: Well for the typical review, it's probably on the order of 4-6 hours on a typical case. But as you know, there can be a variation. And I believe the maximum number of hours is 10 hours in a case, however that could be negotiated if the case seems to be extremely complex or requires a review of a lot of documents.

CV: And as an expert reviewer for the Board once you are approved and you're trained and you're actively taking cases – if your practice, your day-to-day job as a physician does not allow you to take a case, do you then have the opportunity to say 'I am not able to take this case and deny it'?

JN: Yes the expert always has the option to say 'I cannot, I'm not available, I can't take this particular case,' or there's a conflict of interest that's one of the key features of being an expert viewer is knowing whether there may be a conflict of interest with your role in the review of a case. So you always have the option to recuse yourself from the investigation, from participating in the investigation of a case.

CV: So Laura what is the ideal physician, what is the ideal person to be an expert reviewer for the Board?

LS: I think the most important characteristic is somebody who is going to be fair and unbiased, who has experience in the issue that is being evaluated at the time the incident or treatment occurred is very critical. Somebody who likes to write, who can take a lot of information and create a succinct but comprehensive and accurate expert opinion. And somebody who's willing to testify, who is not intimidated by the fact that they may very well have to testify and be cross-examined under oath. I think those pretty much comprise the ideal person.

CV: Does he or she get a say in the type of cases they review for the Board?

LS: Absolutely. So what will normally happen is the investigator will contact the expert and explain the allegations that the case encompasses and how much material there is going to be to review. They will make sure that the expert does not know or have any conflict, like Dr. Nuovo mentioned, with the subject physician. There's an entire checklist that we have to make certain that the expert isn't currently engaged in a lawsuit. So there's an entire process at which time the expert completely should get a decent idea of what the case is going to be about so that they can agree or not agree to accept it.

CV: Jenna what is the process to be recruited for an extra reviewer?

JJ: Well there's a couple of different ways that someone could become an expert reviewer. We have information on our website where they can go and sign up. The first step would be to submit an application and then attend the training. In 2020 we are offering three more trainings this year and it's an all-day training but it's very informative – it outlines their role, what they are looking for, how to construct a report, explains the legal process. It actually covers the whole investigative process so they understand what their role is and how that will be part of the entire case. So we would ask if they have any questions that they look at the website and they are also welcome to contact our Expert Reviewer Program. I believe those phone numbers for Susan Goetzinger is listed on there or they can contact our office and we will assist them with whatever information we can provide and get them signed up for the next training course.

CV: And is the training course a free training? Do physicians have to pay for it?

JJ: No, it's entirely free. It does usually take place on a Saturday and we find that's most advantageous so people don't have to miss normal work hours during the week. They also can earn CE by attending and so not only is it free they can earn CE, they just have to do a sample report at the end of the course. So if the sample writing is acceptable and meets the criteria, then they qualify to be an expert and then they can earn the money, the \$200 per hour when they review cases.

CV: And just so that everyone listening knows there is a wealth of information on our website including the application and the dates and locations and the times for those expert reviewer trainings. And I believe those trainings happen in both the northern and southern California so

there's plenty of opportunity for physicians who are interested in becoming an expert reviewer for the Board to attend.

JJ: Yes, and our next training is going to be in September in the Los Angeles area and then in October we will be holding it in the northern part of the state in San Mateo.

LS: But I also wanted to mention that once that training is undertaken and the sample report adequate that's been approved sample report has been submitted then they are entitled to additional compensation, which is incentive to undertake that training.

JN: Just one thing I wanted to add, when you say you accept a case as an expert what do you expect is that you'll receive all the documents, generally electronically, about the particular case and you'll also receive very specific instruction how to write your report. So you're not expected to generate a report out of the blue. There's a very specific structure that you provide information back in your report. It says nature of the complaint or concern, the information that is relevant, and the records that have been sent to you. And your analysis about whether there has been a departure of the standard of care. And all that is carefully spelled out in the letter to the expert reviewer as to how to address the information and to produce a report that will be useful.

CV: And let's say you have questions – how to write the report or maybe you have a question on the case do you then work where the investigator or probably somebody from the Board or how does that work?

JN: Absolutely. The investigator who contacted you about the case, they are always willing, able and available to answer any questions that come forward as you either need more information that's not available in the records that were sent or how you are going to be writing up your report.

CV: What do you find most rewarding about doing this kind of work?

JN: Working with the different people from the district office is always very interesting, very helpful, very insightful. How a medical board addresses a concern about a physician.

LS: I have also heard back from experts who have said they learned a lot by being an expert. That they have been able to research issues and a lot of experts have told us that it improves their standard of care. And it's their way to uphold the standard of care in the medical community in California, which is kind of a neat side effect.

CV: So I keeps them up-to-date.

LS: Correct. Up-to-date and just, it allows them to participate in the overall standard of care, and influence it, and uphold it. So we can't exist without our experts – the way our process works is entirely dependent on independent medical reviewers so I would encourage anybody

who is interested to at least give us a call and find out more about it because the majority of experts really find the experience to be informative and quite interesting, and sometimes surprising.

CV: And that's going to be it for Medical Board Chat this has been Carlos Villatoro, make sure that you visit our site if you have more questions on the Board's expert reviewer program.