

PHYSICIAN ASSISTANT COMMITTEE

MINUTES

May 31, 2007
Hilton Los Angeles Airport
Carmel Room, Second Floor
5711 West Century Blvd.
Los Angeles, California 90045

9:00 AM – 4:00 PM

1. Call to Order by Chairman (Sachs)

Chairman Sachs called the meeting to order at 9:00 AM.

2. Roll Call (Mitchell)

Staff called the roll. A quorum was present.

Committee Members Present: Robert Sachs, PA-C
 Rebecca Grisby
 Steve Klompus, PA
 Tina Melendrez-Meyer, PA-C
 Laurie Gregg, M. D.
 Lorelei Sun, PA-C

Committee Members Absent: Cristina Diaz

Staff Present: Elberta Portman, Executive Officer
 Laura Freedman, Staff Counsel, Dept. of Consumer Affairs
 Dianne Tincher, Enforcement Analyst
 Glenn Mitchell, Licensing Analyst

3. Approval of Minutes – February 15, 2007 meeting (Sachs)

The February 15, 2007 minutes were approved as written (m/Melendrez-Meyer/s/Diaz/c)

4. Sr. Assistant Attorney General, Office of the Attorney General Presentation - Carlos Ramirez

Carlos Ramirez thanked the committee for the opportunity to speak at the meeting on both vertical prosecution and settlement conferences. Mr. Ramirez explained the basis and history of vertical prosecution, which was implemented as a result of SB 231 and essentially transferred responsibility for directing investigations from the Medical Board of California to the Office of the Attorney General.

Mr. Ramirez stated that vertical prosecution simultaneously assigns a case to both an investigator and deputy attorney general, and requires the assignment of a deputy attorney general from the beginning of the case through the process, directing the assigned deputy to conduct and monitor the investigation. Although the bill became effective January 2006, the resources did not become available until July 1, 2006. The preliminary report from the Medical Board indicates the vertical prosecution model is working as promised. Discussion ensued.

Mr. Ramirez then explained how settlement agreements are negotiated, explaining that as the decision maker, the committee reserves the right to ask questions and receive adequate explanations about any proposed settlement agreement, noting that when a case is investigated, it can take from 6 months to one year to investigate the case to the point where an accusation is filed, and then can take longer for the case to be assigned for hearing. It is during this time that there can be mitigating factors that can occur, causing cases to settle because of changes in the posture of the case. He estimates that approximately 70 to 75 percent of the cases settle before proceeding to an administrative hearing. Discussion ensued regarding this process.

5. Reports

a. Chair's Report (Sachs)

Mr. Sachs acknowledged and welcomed the audience from Charles R. Drew University of Medicine and Science Physician Assistant Program to the meeting, and asked that each of the Physician Assistant Committee (PAC) members and staff to introduce themselves.

Mr. Sachs introduced and acknowledged Antonette Sorrick, Deputy Director of Board Relations, and asked her to comment on any new items from the Department of Consumer Affairs. Ms. Sorrick noted that the last time she was at our meeting the Director, Charlene Zettel, had departed, but now there has been the appointment of Carrie Lopez as the new Director for the Department of Consumer Affairs, with Scott Reid assuming the position of Chief Deputy Director. Mr. Reid comes from the Governor's Office, and also served as Chief Deputy Cabinet Secretary with Fred Aguiar. The Director, Carrie Lopez, previously served at the Coro Institute in Los Angeles, and has been affiliated with another non-profit agency as well.

Mr. Sachs reported that he and Elberta Portman attended Legislative Day, which was conducted by the California Academy of Physician Assistants. The day included meeting several members of the Legislature, including Karen Bass, who is the Assembly Majority Leader and also a Physician Assistant. Majority Leader Bass hosted the function, which was very successful.

Mr. Sachs reported that he gave a presentation to Riverside Community College, and the students expressed their concern about the National examination scores, which are lower than in previous years. Mr. Sachs noted that the trend is occurring with all programs, not just Riverside College. One possibility for this trend may be that students applying for and attending PA programs are younger than students who attended programs at the beginning of the PA programs, and new students do not always have previous health care experience. Presently the programs are making determinations as to how best to adapt the training to address the new candidate population.

On the issue of the possibility of emailing proposed decisions to committee members, Mr. Sachs reported he would like to have members try having proposed decisions emailed to them, which will save mailing costs, time, and paper. Staff counsel Laura Freeman said she was sure that appropriate security was in place and noted that Medical Board had implemented this process.

b. Executive Officer's Report (Portman)

As of March 31, 2007, the PAC still retained over 54% of the enforcement budget, and it appears that the budget will be sufficient for the remainder of this fiscal year because there is 33% of the total budget remaining.

The Medical Board Newsletter included the PAC article *Drug Orders by Physician Assistants*.

Ms. Portman reported on the status of the Ad Hoc Reporting System, which allows the PAC to obtain reports and statistics from its database, and is being developed by Natoma Technology. At this time the project is in the testing phase.

Ms. Portman reported that the I-licensing project is still progressing. The Physician Assistant Committee is scheduled for implementation during the fourth quarter of 2008/2009, and at that time will allow the PAC to accept credit card payments for renewals and printing of plastic pocket licenses.

Ms. Portman reported that the move for the Physician Assistant Committee office is still on schedule for November. The existing telephone system for the PAC will not be relocated, as it will not be compatible in the new space, and costs for retrofitting exceed costs for newer equipment. Ms. Portman also noted that the November meeting will be held at the Howe Avenue conference room.

Ms. Portman reported that the Department of Justice no longer charges \$10 extra for expedited fingerprint processing for out of state applicants, which means that the PAC no longer will charge the additional \$10 fee to applicants.

Ms. Portman reported that Dianne Tincher of the Physician Assistant Committee has developed a new website design, which was submitted to the Department of Consumer Affairs. The new website will include home page buttons for easier access, a new color scheme, more links and pages, and the website link will now be www.pac.ca.gov

Ms. Portman reported that another project that the Physician Assistant Committee is working on is the scanning of all licensing files to protect them in case of a disaster. The scanner has been ordered, and the monies for the scanner will be taken out of the budget for this fiscal year.

c. Program - activity report (Mitchell) Licensing

Glenn Mitchell stated that between January 1, 2007 and May 1, 2007, 163 licenses were issued, along with 11 interim approvals. As of May 1, 2007, 6,373 licenses have been issued. Ms. Portman noted that since we have a vacant position for the licensing program, Glenn Mitchell has assumed the duties temporarily and there is no backlog and everything has been kept current.

d. Diversion Program - activity report (Mitchell)

As of April 1, 2007, Diversion has 9 participants, two of whom are voluntary participants and 7 are committee referrals.

e. Enforcement Program - activity report (Tincher)

Ms. Tincher reported that between July 1, 2006 and April 30, 2007, the PAC received 121 complaints, closed 125, and had 49 pending.

As for category of complaints received, 43 complaints were received under the category negligence, and 28 were received under the category of unprofessional conduct.

Ms. Tincher reported that during this period 47 investigations were opened, 32 were closed, and 33 were pending. The disposition of the complaints were 51 were closed, 74 were closed with insufficient evidence to proceed.

As for probationers, Ms. Tincher reported that there are 36 active probationers. In regard to cost recovery, \$31,073 has been ordered and \$33,705 has been received. In disciplinary decisions there were two license denials, two non-adoptions, nine licenses placed on probation, 3 revocations, 4 voluntary surrenders, and 3 probationary licenses issued. Eight accusations were filed, one statement of issues, a withdrawal of one statement of issues, and there are currently 19 cases pending at the Office of the Attorney General. In regard to citations, five were issued, four were withdrawn and three are pending. The fine amount on the citations was \$2,250, and we have received \$1,500 of that amount at this time.

In regard to the case aging, out of 33 investigation cases, 15 of those are over 8 months old, and 5 are working within the Medical Board priorities, 6 are waiting for interviews, records and reports. In disciplinary cases, there are 19 pending cases, and ten of those are over 8 months old, 2 are being negotiated, and one is awaiting a criminal conviction disposition. In the last five years, we have ordered over \$200,000 in cost recovery, and have received almost \$163,000; with \$39,000 outstanding and \$56,000 are uncollectible, which usually involves surrender or revocation cases. If the licensee ever reapplies for licensure, then he/she would be required to repay the cost recovery, which had not been paid.

6. 11:00 A.M. Hearing (Disciplinary Guidelines)

Regulation hearing to amend Section 1399.523 of Title 16 of the California Code of Regulations regarding amendment to Manual of Model Disciplinary Guidelines and Model Disciplinary Orders.

No testimony was taken and the hearing was closed. Motion to accept the regulation amendment 1399.523 and to allow the Executive Officer to make non-substantive changes to the document. (m/Klompus/s/Sun/c).

7. Update on Regulations – Medical Board Response (Portman/Gregg)

Ms. Portman reported that last year the Committee took action to amend two regulations. One regulation involved naming the Delegation of Services Agreement and making it a requirement that both the physician assistant and the supervising physician sign the document. After submission to the Office of Administrative Law, it was rejected as it was deemed to involve scope of practice, which falls under the jurisdiction of the Medical Board of California. The Medical Board plans to convene a working group to review this regulation, as CMA was concerned with the physician signature and enforcement of this regulation change.

The second regulation would match legislative changes made to Business and Professions Code section 3502.1, with regulation section 1399.541(h). The change in the law was to require that Schedule II through V drug orders be reviewed and countersigned within 7 days by the supervising physician and be in compliance with B&P Section 3502.1. The Office of Administrative Law allowed the Committee to withdraw the regulation, and suggested that change be made by the Medical Board through a Section 100 change. The Medical Board is now making the Section 100 change.

A motion was made to have a work group from the Committee work with the Medical Board Division of Licensing on the delegation of services regulation. Discussion ensued about the importance of having a signed Declaration of Services agreement in place to practice and be supervised appropriately. Discussion ensued and Bob Miller of CAPA volunteered to be a part of the work group. Chairman Sachs accepted his offer to assist with this project.

(m/Melendez-Meyer/s/Sun) to have a work group with members of the Medical Board and to ask that the work group report back to the Committee in August.

8. Health Manpower Pilot Project

Dr. Gregg reported that she is the Medical Board representative for this project, which allows a group of individuals to participate in a 3 year project outside of the scope of practice or current laws it is may help the manpower shortage within California. Dr. Gregg noted that she had recently heard that the project had been approved by OSHPD.

9. Discussion Concerning Possible CME Requirements for California Physician Assistants (Klompus)

Mr. Klompus reported that California is one of 22 states that does not require recertification as a requirement for licensure, and that California, Colorado, New York and Michigan are the only states that do not require continuing medical education for renewals. Mr. Klompus reported that in the past the Committee was not able to monitor the requirement for re-licensure in the past, as the staffing and budget would preclude it, however, he believes that California is a leader in this profession and it seems logical that we should have the best standard of excellence for consumers in California. Discussion ensued regarding whether the committee would want to require re-certification or continuing medical education. A motion was made to amend its statutes to require CME upon renewal. (m/Klompus/s/Meyer/c).

10. Countersignature Requirements for Drug Orders – Discussion of need to raise level of awareness (Sachs)

Mr. Sachs reported that this law became effective January 1, 2005, and it changed what schedules the physician has to countersign (II through V), but did not change patient specific authority requirements. Discussion ensued on the patient specific authority requirements.

11. Legislation (Sachs)

- Bills: AB 139, AB 611, AB 1393, AB 1436, SB 374, SB 618, SB 1048
- Other Legislation

The Committee chose to take the following positions:

AB 139 – Support
AB 1393 – Neutral
AB 1436 – Oppose
SB 374 – Support
SB 618 – Oppose
SB 1048 - Support

12. Policy on Voting with Non-Adoptions and Holds (Sachs)

Mr. Sachs asked the committee to vote on whether two votes for anything other than adopt would send the case for review. (m/Klompus/s/Grisby/c)

13. Set Committee Meeting Dates/Locations (Sachs)

August 30th meeting will be held in Los Angeles, and the November 8th, meeting will be held in Sacramento.

14. Items for Next Meeting (Sachs)

The following agenda items were suggested

- a. CME requirements
- b. Pending legislation
- c. Update on delegation of services regulation.

Adjourned at 1:30 PM