

Physician Assistant Committee

MINUTES

August 13, 2009

2005 Evergreen Street, Hearing Room
Sacramento, California 95815

9:30 a.m. – 5:00 p.m.

1. Call to Order by Chairman

Chairman Klompus called the meeting to order at 9:47 a.m.

2. Roll Call

Staff called the roll. A quorum was present.

Committee Members Present: Steve Klompus, PA
Rossllynn Byous, PA
Cristina Gomez-Vidal Diaz
Reginald Low, M.D.
Shaquawn D. Schasa
Steven Stumpf
Shelia Young

Staff Present: Elberta Portman, Executive Officer
Claire Yazigi, Staff Counsel, Dept. of Consumer Affairs
Laura Freedman Eidson, Staff Counsel, Dept. of
Consumer Affairs
Dianne Tincher, Enforcement Analyst
Glenn Mitchell, Regulation and Lead Licensing Analyst
Lynn Forsyth, Analyst

3. Approval of minutes of May 14, 2009 meeting

The May 14, 2009 minutes were approved as amended.
(m/Dr. Low, s/Schasa, c/all)

4. Reports

a. Chair's Report

Chairman Klompus stated that because of the State budget crisis all boards and bureaus within the department were asked to reduce their operating expenses by 15%. Chairman Klompus stated that along with reducing office expenditures, the

Committee staff would reduce travel costs by not attending the annual California Academy of Physician Assistants (CAPA) conference. Chairman Klompus stated that he would speak at the CAPA conference and represent the Committee.

Chairman Klompus introduced new public member Steven Stumpf. Mr. Stumpf was appointed by Karen Bass, Speaker of the Assembly, and has extensive experience with the physician assistant profession. Mr. Stumpf spent ten years with the physician assistant training program at the University of Southern California.

Chairman Klompus also introduced the Committee's new staff counsel, Claire Yazigi. Due to workload changes, Ms. Yazigi replaces Laura Freedman, who was assigned other duties within the Department of Consumer Affairs.

Chairman Klompus indicated that he has spoken to the Governor's Office regarding the vacant physician assistant positions on the Committee and voiced his concern that there may be a quorum issue in the near future.

Chairman Klompus stated that due to recent developments at the Board of Registered Nursing, a meeting was held on July 23rd in Sacramento to address departmental enforcement matters. Attendees at the meeting were the Chairs and Executive Officers of the healing arts boards or committees. Mr. Fred Aguiar, Secretary of the State and Consumer Services Agency, asked attendees to submit recommendations for improvements to their enforcement programs, specifically addressing case aging, processing of cases to the Attorney General, and other matters that will enhance consumer protection.

Chairman Klompus indicated that the Governor had appointed Brian Stiger as the new director for the Department of Consumer Affairs. Mr. Stiger was the Executive Officer for the Chiropractors Board and has previously worked for various programs within the Department.

b. Executive Officer's report

Ms. Portman reported that the mandatory furlough days occur on the first, second and third Fridays of each month. The Committee's website and voice mail reflect that the office is closed on those days. Ms. Portman also stated that staff has suspended their alternate work schedules during the furlough period.

Ms. Portman reported that our licensing application procedure has been modified to allow applicants to send both the initial license and application fee at the time they submit the application. This new procedure will decrease the application and cashiering processing times.

Ms. Portman reported that all scanning preparation work for the licensing files has been completed. In the next phase, all of the old licensing files will be scanned to ensure that there is a backup system in case the paper files are destroyed.

Ms. Portman reported that a biological fluid contract with First Lab has been executed. The contract allows probationers who are mandated to obtain biological fluid tests to be randomly tested. Ms. Portman reported there is no cost for this contract to the Committee, and licensees call an "800" telephone number daily to determine if they will be tested. This contract will ensure that the PAC probationers are tested randomly and more frequently. The contract also eliminates the need for the probation monitors to perform biological fluid testing on probationers.

Ms. Portman reported that staff counsel is preparing a legal opinion on Business and Professions 800 sections which address mandatory reporting requirements of malpractice settlements on behalf of physician assistants. The legal opinion will address potential reporting requirements for physician assistants.

Ms. Portman reported that she is participating in a work group of Department of Consumer Affairs' executive officers for preparing a comprehensive new enforcement process model and will keep the Committee informed of the progress of this project.

Ms. Portman reported that each Board was instructed to cut all operating expenses and expenditures by 15%. Ms. Portman stated that an exemption had been granted for mission critical items such as enforcement, diversion, facilities operations, and Medical Board shared services. These necessary cuts will come from out-of-state travel, in-state travel, postage, printing, and various other reductions. Ms. Portman reported that staff is requesting callers to visit our website to download forms or publications to save printing and postage costs. These cost savings will not diminish the Committee's ability to continue to provide superior customer service.

Ms. Portman reported that the Professionals Achieving Consumer Trust Summit will be held in Sacramento on July 26-29, 2010, at the Convention Center, and she will provide more information as it becomes available.

Ms. Portman reported that a "Career Page" was added to the Committee's website, providing users with information on the licensed profession. Additionally, Ms. Portman reported that a customer satisfaction survey will be available on the website within the next month. The survey will enable the Committee to ensure that the Committee continues to meet customer service expectations.

Ms. Portman introduced Teena Arneson and Patti Mahan, staff members from the Central Complaint Unit of the Medical Board, who provide service for processing of physician assistant complaints.

c. Licensing program - activity report

Between April 1, 2009 and July 1, 2009, 97 licenses were issued and 6 interim approvals were issued. As of July 1, 2009, 7,260 licenses have been issued, and there are a total of 157 approved training programs.

d. Diversion Program - activity report

As of July 1, 2009, The Diversion Program has 19 participants, 7 of whom are voluntary participants and 12 are Committee referrals. There have been 87 participants since program implementation in 1990.

e. Enforcement Program - activity report

Between July 1, 2008 and June 30, 2009, there were 86 pending complaints, 28 pending investigations, 46 current probationers and 25 pending cases at the Office of the Attorney General.

5A. **10:30 AM Regulations Public Hearing**

Regarding adopting sections 1399.615, 1399.616, 1399.617, 1399.618, 1399.619 and amending section 1399.571 of Title 16 of the California Code of Regulations related to continuing medical education requirements and specific criteria for satisfying the continuing medical education requirements as a condition of license renewal for physician assistants.

The Regulatory hearing began at 10:43 a.m. A quorum of the Committee was present. No oral comments were received. The hearing was closed at 11:00 a.m.

5B. **Vote on Regulations**

A written comment on the proposed regulation change was received from the California Medical Association (CMA). The comment stated there are two references in the proposed text of the regulation that refer to a "license to practice medicine" when referring to physician assistants. The CMA recommended the phrase "license to practice medicine" be modified to "license to practice" to avoid confusion with a physician and surgeon license. Staff explained that Business and Professions Code §3502 refers to physician assistants performing "medical services". Staff counsel recommended that the phrase "practice medicine" be amended to read "perform medical services". Staff counsel believes this amendment will conform to the provisions of Business and Professions Code Section 3502 and address CMA's comments.

A motion was made to modify the language in section 1399.619 and 1399.618 to replace the term "practice medicine" with "perform medical services".
(m/Byous, s/Stumpf, c/all)

A motion was made to adopt the regulations as amended, assuming no adverse comments are made, instruct staff to issue the 15 day notice with modified language, and delegate authority to the Executive Officer to make non-substantive changes as may be required by the Department of Consumer Affairs or the Office of Administrative Law. (m/Young, s/Diaz, c/all)

6. **11:00 AM - Hearing**

Petition for Early Termination of Probation – Jose Sandoval

CLOSED SESSION: Pursuant to Section 11126(c)(3) of the Government Code, the Committee moved into closed session to deliberate the petition for termination of probation.

7. **CLOSED SESSION:** Pursuant to Section 11126(c) (3) of the Government Code, the Committee moved into closed session to deliberate on disciplinary matters.

8. **CLOSED SESSION:** Pursuant to Section 11126(e)(2)(A) of the Government Code, the Committee moved into closed session to discuss pending litigation. (*McCartney v. Physician Assistant Committee, Sacramento Superior Court, Case No.06CS01440*)

9. **Healing arts enforcement discussion**

Ms. Portman referred to enforcement statistics that were requested by the State and Consumer Services Agency. Ms. Portman indicated that Agency requested this information in relation to address enforcement case aging.

10. **Discussion of options and possible amendment to regulations regarding payment of Diversion costs**

Chairman Klompus stated that participation fees for Diversion are currently \$100.00 per month, but the cost to the committee is \$243.00 a month, per the current contract with Maximus. At the May 2009 meeting the Committee staff was asked to prepare several options regarding participant payment of Diversion Program participation fees.

Chairman Klompus stated it is important for participants to be assessed a fee for participation to reinforce accountability and responsibility for their recovery. Chairman Klompus reported that as of July 1, 2009, there are a total of 19 participants, 7 of which are voluntary referrals and 12 are Committee referrals.

Chairman Klompus added that in review of the six month fiscal year 2008/09 budget, the budget for the Diversion Program line item was overspent due to the increased number of participants. Upon receiving the Department of Consumer Affairs' budget office authority and approval, a Budget Change Proposal for \$40,000.00 was submitted.

The Committee discussed several payment options that were presented to the Committee, and a motion was made to charge probationers ordered into the Diversion Program the full amount of the Diversion Program fees, and charge self referrals 75% of the fees, and to instruct counsel to prepare regulatory language to be brought to the next Committee meeting for approval.

(m/Young, s/Dr. Low, 1 opposed, c/rest of committee)

11. **Creation of a task force to review national accreditation of physician assistant training programs**

Chairman Klompus stated that there are four certificate community college programs in California, and that the national accreditation organization for physician assistants is moving to a master's degree level. Chairman Klompus stated that moving to a master's degree level would possibly eliminate the certificate level programs, and in order to review the issue of the certificate programs he would create a task force consisting of Les Howard, Director of the San Joaquin Valley Physician Assistant Program, Bob Sachs, former member of the Physician Assistant Committee, and Member Rosslynn Byous. The members will convene to discuss the issues and report back to the Committee.

Staff Counsel Laura Freedman stated that the highest priority of the Committee is public protection; therefore, the task force should consider whether or not a change to a master's program is required for public protection.

12. **Pending legislation of interest to the Committee**
AB 120, AB 356, AB 1310, SB 43, SB 171, SB 374, SB 389, SB 599, SB 638, SB 819, SB 820

Chairman Klompus stated the Committee is not taking any positions on the above mentioned bills.

13. **Discussion of workforce issues requested from Healing Arts Roundtable Meeting**

Ms. Young provided an update on the Healing Arts Roundtable Meeting, providing the Committee with four action plans consisting of: (1) development of workforce data on existing licensing information, (2) convening stakeholder meetings to identify workforce issues, (3) development of a concrete action plan to address at least three workforce issues over the next two years and (4) reporting on the action plan at the January Healing Arts Meeting.

14 a. **Review of policy related to petitions for penalty relief**

Staff Counsel Laura Freedman discussed the proposed policy for oral argument, written briefs and the introduction of evidence for the reinstatement of a license, termination of probation, or modification of probation.

A motion was made to adopt the policy as written.
(m/Dr. Low, s/Schasa, c/all)

14 b. **Review of policy related to contested cases and remands.**

Staff Counsel Laura Freedman discussed the proposed policy for oral argument, written briefs and the introduction of evidence for non-adopted cases and cases received upon remand from Superior Court.

A motion was made to adopt the policy as written.
(m/Dr. Low, s/Schasa, c/all)

15. **Discussion of Title 16 CCR Section 1399.536(a) (4) ratio of preceptors to preceptees**

After a brief discussion the Committee asked legal counsel to review and bring recommendations to the Committee at the November meeting.

16. **Items for next meeting**

1. Update on the healing arts enforcement plan revision
2. Discussion on increasing the renewal time cycle two years to four years
3. Review of the final Strategic Plan
4. 2010 Meeting Dates

17. **Public comment on items not on the agenda**

No public comment was received.

18. **Strategic Planning Session – Hearing Room 1150**

The Committee developed modifications and additions to the Committee's Strategic Plan.

19. **Adjournment**

The meeting adjourned at 4:30 P.M.