



POLICY & ACTION FROM CONSUMER REPORTS

Barbara Yaroslavsky
President
Medical Board of California

January 30, 2012

Dear Ms. Yaroslavsky:

Consumers Union's Safe Patient Project (SPP), a nationwide campaign, is organizing patient safety advocates from across the state of California. SPP has been working in California on issues relating to hospital safety (hospital-acquired infections and medical errors) since 2003, recently coalescing as the Consumers Union California Safe Patient Network. Members of the California Network monitor agency meetings, testify at legislative hearings and participate as members of various health-related state committees. Consumers Union's Safe Patient Project works to ensure that consumers have information about patient safety as a method of stimulating provider improvement.

We share with the Medical Board of California (MBC) a similar mission of protecting health care consumers. We are concerned about, among other things, consumer access to MBC meetings. We met recently with Ms. Whitney and Ms. Kirchmeyer to share our concerns about this and other issues discussed below. We look forward to the opportunity to work with MBC's board members and staff so that MBC may better serve California's health care consumers.

Teleconferencing and webcasting

Since California is such a large state, MBC public meetings are routinely inaccessible for consumers who cannot afford the funds and time to travel the length of California to attend in person. Many of the consumer activists we work with are survivors of medical harm and some are disabled as a result. For these well-informed and passionate activists, travel to MBC meetings is even more difficult and, in some cases, not possible.

Recently the MBC began webcasting a portion of their quarterly board meetings. While this is a step in the right direction, webcasting does not allow for consumer participation in meetings, only for their observation. Currently, the public is only able to participate in the meetings if they are physically present. Creating an interactive teleconference capacity for all of the board's meetings would allow the public to provide input into the work of the MBC. A member of the California Network previously approached the MBC to request that their meetings be made available for public participation through teleconferencing, but did so without success.

When we met with Ms. Whitney and Ms. Kirchmeyer, among other things,:

- we requested that the MBC begin providing teleconferencing for its public meetings soon. By teleconferencing we mean opportunities for the public to listen to MBC public meetings by telephone, and, to allow public testimony by telephone. The California Healthcare Acquired Infections Committee and the new California Health Benefit Exchange, among others, are Bagley-Keene governed entities that provide interactive teleconferencing successfully.
- we requested that the MBC request that DCA webcast all of MBC's public meetings and that MBC post webcasts of the meetings on its website as soon as possible after the meetings are adjourned. If DCA is not able to webcast the meetings, we request that MBC make its own arrangements to webcast its meetings. Also, MBC should provide a link, available at the time of meetings, so the public can easily access live webcasts.
- we requested that the MBC make clear and prominent on its website the opportunities and rules for public participation in MBC meetings and discussed how written public testimony is handled.

Statute of limitations

The MBC's website offers confusing information to patients who are trying to understand and comply with deadlines for filing complaints. This has resulted in the MBC refusing to review complaints that patients believed were filed timely.

When we recently met with Ms. Whitney and Ms. Kirchmeyer, among other things,:

- we supplied MBC with some problematic examples of unclear and misleading communications on its website related to its statute of limitations (SOL). We requested that the MBC correct this information. Also, at the moment, the MBC complaint form makes no mention of the SOL. We would be happy to work with your staff to develop improved ways to give patients better clarity about the time frames related to filing complaints.
- we requested that when MBC learns of an alleged improper act or omission by a physician, from a source other than the patient such that the 3-year SOL begins to run, that the patient be notified immediately in writing that their SOL has begun to run.
- we also requested that when a patient makes a complaint to the MBC, that the MBC explain the SOL and inform them how much time they have before the SOL will run out in their case. Further, the MBC should advise patients, as their complaint is making its way through the process, as to whether it is in danger of going over the SOL timeframe.

MBC responsibilities related to outpatient settings and SB 100 (Price)

As you know, the recent passage of SB100 (Price) makes explicit a number of MBC responsibilities related to certain outpatient settings.

When we met with Ms. Whitney and Ms. Kirchmeyer, among other things,:

- we requested that, among other things, MBC post on its website *historic* information about outpatient settings' violations that have been noted by accrediting agencies in the past.
- we requested that MBC develop a clear process with the Department of Public Health to assure that the MBC is immediately apprised of adverse events reported and of fines imposed under Health and Safety Code sections 1279.1 and 1280.4, and, that MBC make this information available on its website. Where appropriate, MBC should investigate whether the adverse events involved physician misconduct.
- we requested that MBC communicate to California physicians their new reporting responsibilities, and associated fines for failure to report, under Health and Safety Code sections 1279.1 and 1280.4.

Also, we are interested in knowing MBC's plans about developing regulations related to SB 100, generally, and, in particular, specifying procedures that should be performed in an accredited outpatient setting but are not so required now [SB 100, Health and Safety Code section 1248.15(f)].

We look forward to hearing back from you and MBC staff soon about timeframes for informing us about the MBC's plans around the issues discussed above. The Consumers Union California Safe Patient Network hopes to work with the MBC to improve consumer access to the MBC's processes and to better protect the safety of California patients. Please contact Maryann O'Sullivan, who is working for Consumers Union on California Medical Board issues, at maryannosullivan1@gmail.com, [415 457 1417](tel:4154571417) (office) or [510 757 7942](tel:5107577942) (cell). Contact information for the group who met with Ms. Whitney and Ms. Kirchmeyer is below.

Thank you very much.

Sincerely,

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