

## Re: Writing a Resolution for Duty of Care

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From: Robert Weinmann (rlweinmann@yahoo.com)

To: stella.legarda@att.net; scattolica@scadvocates.com

Cc: rosenthaljohanna@gmail.com; rgyoungmd.cns@gmail.com; georgesarka@aol.com; sharonyegiaian@yahoo.com; docricketts10@gmail.com; paularothschild@gmail.com; angus.lee.50@gmail.com; cnseducation@ca-neuro-society.org

Date: Thursday, October 21, 2021, 12:10 PM PDT

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If y'all review my San Francisco Chronicle piece from 08/29/08 you'll see that it states that "utilization review doctors without California licenses cannot be disciplined by the Medical Board of California for unprofessional conduct because they aren't under board jurisdiction. Neither can they be prosecuted in the states in which they do have licenses because those states don't have jurisdiction in California."

That explains why then Assemblywoman Sally Lieber carried legislation, AB 2969, which would have required physicians who do Utilization Review for injured workers in California to be licensed in California. This bill was supported by the medical board of California and got through the legislature only to be vetoed by the Governor. CNS Support for Duty of Care (DOC) is overdue.

Recommended language for proposed DOC legislation is the following:

"Utilization Review physicians shall be subject to the same Duty of Care laws and requirements that are applied to treating physicians. Utilization Review physicians shall

be licensed in the state or states wherein they render decisions and shall be subject to the medical boards of those states."

Since CNS deals primarily with California, it would in my opinion be acceptable to change the wording so that it reads that "Utilization Review physicians shall be licensed in California."

I suggest that this letter be published on the CNS website.

Robert L. Weinmann, MD  
-- president, California Neurology Society (CNS)  
-- chair, legislative committee, CNS

On Thursday, October 21, 2021, 10:06:23 AM PDT, Steve Cattolica <scattolica@scadvocates.com> wrote:

This is great support for our legislative solution.

Please keep in mind that it is not important (at this particular moment) to mention our overture to legislators. That will come soon. The reason is we want the CMA to come on board with our initiative, not CNS to support a CMA initiative. That may seem counterintuitive, but I believe we all will realize that CMA "driving the bus" makes CNS a passenger. That is not necessarily the stature we want to drive membership. At the very least, we want CMA to become co-sponsors with us and not the other way around.

There is no question a CMA resolution in support of Duty of Care is a very important endorsement, but CMA has not changed stripes. It is a political animal that can squelch even the best intended legislation if it sees an advantage in doing so.

Steve

On Wed, Oct 20, 2021 at 10:13 PM Stella Legarda <[stella.legarda@att.net](mailto:stella.legarda@att.net)> wrote:

Hi Joanna and Steve and Bob,

Here attached (the third one you haven't seen yet) is what was presented to the HOD in representing the CNS, plus supporting documents (other 2 attachments you already saw). Written at end is what was submitted as a Recommendation (shared before).

I hope you all 3 got to read the email from the Specialty Delegation Chair, Tim Murphy, to which my reply was cc'd to Legislative Committee. He agrees with Bob we should start working on this as a Resolution.

[For those cc'd in this email, here is what Tim wrote:

"I liked your duty to serve recommendation and I still like it. I would support its submission as a free-standing, separate resolution for the year-round process. It might fit better there anyway, as it involves more than just the corporatization of medicine. An advantage of submitting it as a resolution is that all CMA members can see it and comment on it, and the Council will devote more time to it.

The potential problem with submitting it as a year-round resolution is that not all those submitted are taken up by CMA each quarter. It's not clear to me who decides which ones are and which ones aren't; usually staff just says they didn't have time to do all of them, so some will be delayed until a future quarter. Still, it's worth trying, and I'll do my best to see that it actually gets taken up. So think of writing it as a resolution. Since we didn't submit it as a new recommendation to Major Issue B, it would need to be in the standard Whereas format.

Tim"]

Johanna has agreed to present this Friday at the CMA Specialty Delegation Caucus.

After Caucus we finalize a DOC Resolution and submit it for consideration, as per Tim. Our Trustee Barbara Weissman also encourages the submission of resolutions by represented specialty societies.

Johanna and Steve, would you like to take a stab at writing the first draft of the Resolution with the "WHEREAS" format? Got to get this done in time...

All thoughts welcome.  
Stella

Regards,  
*Stella B. Legarda, MD*