



ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

15 February 26, 2019

CELIA ZAVALA
EXECUTIVE OFFICER

Los Angeles County
Board of Supervisors

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February 26, 2019

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Christina R. Ghaly, M.D.
Director

Hal F. Yee, Jr., M.D., Ph.D.
Chief Medical Officer

Dear Supervisors:

**APPROVAL TO PROVIDE LEGAL REPRESENTATION FOR PHYSICIANS
INVOLVED IN A MEDICAL BOARD OF CALIFORNIA INVESTIGATION
(ALL DISTRICTS)
(3 VOTES)**

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www.dhs.lacounty.gov

SUBJECT

*To ensure access to high-quality,
patient-centered, cost-effective
health care to Los Angeles County
residents through direct services at
DHS facilities and through
collaboration with community and
university partners.*

Request approval to provide legal representation for licensed physicians involved in a Medical Board of California inquiry regarding the medical treatment rendered to a patient in the course and scope of employment.

IT IS RECOMMENDED THAT THE BOARD:

1. Make a finding, pursuant to Government Code section 995.6 that the Los Angeles County Department of Health (DHS) employees, as described below, acted in good faith and without malice in the apparent interests of the County.
2. Permit the Office of the County Counsel to provide legal representation for the employees in a proceeding initiated before the Medical Board of California (MBC).



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PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the first recommendation is necessary to exercise the County's option, under the California Code 995.6, to provide for the legal defense for an administrative proceeding brought against County of Los Angeles employees. Approval of the second recommendation will allow County Counsel to provide legal representation to the employees who were named as defendants in a lawsuit against the County of Los Angeles.

The Medical Board complaint arises from a wrongful death lawsuit related to medical care provided at Harbor-UCLA Medical Center in August of 2015. The case involved the death of a 20-year-old male with terminal brain cancer whose parents filed a lawsuit against multiple hospitals and health care providers including those working at Harbor-UCLA.

Despite the County being successful in a motion for summary judgment in this lawsuit, the plaintiffs subsequently submitted a complaint to the MBC that has prompted an investigation of at least one County physician. The Department is aware of the MBC complaint against that one physician, however multiple physicians were named in the lawsuit and additional complaints may be forthcoming.

County Counsel reviewed the facts and circumstances surrounding this case. At the time of the incident, the named physicians were employed by the County and were treating the patient in that capacity. Our review of the record reveals no indication that the physicians acted with malice. Rather, at all times, in the treatment of the patient, it appears that they acted in good faith and in the apparent interest of the patient and the County.

Further, we believe that defense of these physicians, who are valuable members of our medical staff, would be in the best interest of the County. Not only would such representation demonstrate loyalty to these specific physicians, as is warranted by the specific circumstances of the case, but it would also demonstrate a commitment that we believe is critical to the retention and recruitment of physicians into County employment.

Implementation of Strategic Plan Goals

The recommended actions are consistent with the County's Strategic Plan Goal 3, Realize Tomorrow's Government Today.

FISCAL IMPACT/FINANCING

The costs for providing legal representation should not exceed \$5,000-\$6,000 per physician. These funds will be allocated from Harbor/UCLA's existing operating budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Pursuant to the Government Code §995.6, a public entity is not required to provide for the defense of an administrative proceeding brought against a County employee. However, the statute allows that a public entity may provide for such defense if certain, specified findings are made. Those findings include that the acts or omissions of the employee must have occurred in the course and scope of his County employment and that the provision of a defense for the employee is in the County's best interests. Further, it must be determined that the employee acted or failed to act, in good faith,

without actual malice, and in the apparent interests of the County.

DHS, County Counsel and outside counsel reviewed the employees' actions and determined them to be within the scope of County employment, conducted in good faith, without malice, and in the interests of the County and that, therefore, legal representation is appropriate.

CONTRACTING PROCESS

There was no contracting process associated with the recommended actions.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the recommendations will allow the County to exercise its option to provide legal representation for the involved County employees.

CONCLUSION

We are recommending that your Board find that the physicians acted in good faith, without malice, and in the best interests of the County and, that their representation at the MBC is within the best interests of the County. We further recommend that your Board direct County Counsel to secure legal representation as needed, at the County's expense, for the named physicians. Upon Board approval, please return two adopted copies of this Board letter to the Department's Chief Medical Officer.

Respectfully submitted,



Christina R. Ghaly, M.D.
Director

CG:la

- c: Chief Executive Office
- County Counsel
- Executive Office, Board of Supervisors
- Department of Health Services