

# Medical Board of California

## It Needs to Consider Cutting Its Fees or Issuing a Refund to Reduce the Fund Balance of Its Contingent Fund

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### *Medical Board of California's response as of November 2008*

Section 2435 of the Business and Professions Code (code) directs the Bureau of State Audits to review the Medical Board of California's (medical board) financial status and its projections related to expenses, revenues, and reserves, and to determine the amount of refunds or licensure fee adjustments needed to maintain the reserve legally mandated for the medical board's contingent fund.

The medical board assesses fees for physicians and surgeons (physicians) according to rates and processes established in the code. In 2005, passage of Senate Bill 231 increased physicians' license fees (fees) from a maximum rate of \$600 to \$790. In addition to establishing the rate, the code also states that the Legislature expects the medical board to maintain a reserve, or fund balance, in its contingent fund equal to approximately two months of operating expenditures.

### **Finding #1: The medical board does not have the flexibility to adjust fees because they are established in law.**

The code requires the medical board to maintain a fund balance that would cover approximately two months of operating expenditures. The code also suggests that if the fund balance becomes excessive, the medical board should take action to reduce the fund balance. However, the code does not provide the medical board the flexibility to adjust fees.

We recommended that the medical board seek a legislative amendment to Section 2435 of the code to include language that allows it the flexibility to adjust physicians' license fees when necessary to maintain its fund balance at or near the mandated level.

### ***Medical Board's Action: Corrective action taken.***

In January 2008 Assembly Bill 547 (AB 547) was amended to include language giving the medical board the flexibility to set initial licensing and renewal fees up to a maximum of \$790. On September 23, 2008, AB 547 was enrolled; however, the governor vetoed this bill on September 26, 2008. The medical board indicated that it fully supports our recommendation and is considering pursuing legislation again in 2009.

### ***Audit Highlights . . .***

*Our review of the Medical Board of California's (medical board) financial status and fund balance revealed that:*

- » *The fund balance of the medical board's contingent fund increased by \$6.3 million, to \$18.5 million, in fiscal year 2006–07. This represented 4.3 months of reserves, more than 100 percent above the reserve level mandated in the law.*
- » *The recent increase in the fund balance resulted from variances between actual and estimated expenditures.*
- » *The medical board estimates that its months of reserves will drop to 1.5 months by June 30, 2012, assuming that it spends all of its appropriations in each of the next five fiscal years.*
- » *However, based on the medical board's historical experience of overestimating expenditures, we estimate that it will have 3.8 months of reserves by June 30, 2012, unless it issues refunds or decreases license fees for physicians.*

**Finding #2: The fund balance of the medical board's contingent fund increased significantly in fiscal year 2006–07, resulting in reserves well above mandated levels.**

The medical board's fund balance increased by \$6.3 million to \$18.5 million in fiscal year 2006–07, which equates to 4.3 months of operating expenditures. The increase was caused mostly by the variance between estimated and actual expenditures in fiscal year 2006–07, primarily related to a planned expansion of medical board programs that was not fully realized in that year.

We believe the fund balance is unlikely to return to the level legally mandated unless fees are reduced or refunded. In particular, while the medical board's estimated revenues consistently approximated actual revenues in the last four fiscal years, the medical board has consistently overestimated expenditures by at least \$2 million each year over the same period. Based on the medical board's future revenue and expenditure estimates, adjusted downward by \$2 million for the expenditure difference just described, we estimate that the medical board still would have 3.8 months of reserves on June 30, 2012.

We recommended that the medical board consider refunding physicians' license fees or, if successful in gaining the flexibility to adjust its fees through an amendment to existing law, consider temporarily reducing them to ensure that its fund balance does not continue to significantly exceed the level established in law.

***Medical Board's Action: Pending.***

The medical board said it considered reducing or refunding license fees but instead initiated several other actions that would bring its fund balance into line with mandated levels. These are:

- Seek legislation to increase the mandated two-month reserve to four or six months.
- Seek budget authority to reestablish the Operation Safe Medicine Unit, to expand the Probation Program, and to replace its information technology infrastructure.
- Conduct a study to determine whether seeking an increase in salaries for investigators is warranted.
- Increase spending in fiscal year 2008–09 related to a new telephone system, office relocations, and rent.
- Decrease revenues in fiscal year 2008–09 by eliminating a convenience fee for on-line cashiering.

➔ We note that as of June 30, 2008, the medical board's reserves had grown to \$23.9 million or 5.6 months of reserves according to the State Budget Status and Budget Expenditures Status Report provided by the medical board's executive director to the medical board in November 2008.