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JOINT COMMITTEE MEETING:
PILOT FITNESS AND RULES AND REGULATIONS COMMITTEES
April 18, 2012
MEETING MINUTES
9:00 a.m.

The Board of Pilot Commissioners Pilot Fitness Committee and Rules and Regulations Committee met jointly on April 18, 2012 at 9:00 a.m. at the Board of Pilot Commissioners office, 660 Davis Street, San Francisco, California. Commissioner Dave Wainwright presided over the meeting with Committee members Vice President Frank Johnston, Commissioner John Cronin, Fitness Committee Chairman Capt. Steve Roberts, Barbara Price, and Brigadier General Chester Ward, MD, MPH present. University of California Associate Clinical Professor Dr. Robert Kosnik arrived later in the meeting. Members of the staff present were Executive Director Allen Garfinkle, Board Counsel Dennis Eagan, and Staff Services Analyst Kelly Dolcini. Business, Transportation and Housing (BTH) Acting Secretary Brian Kelly was represented by BTH Deputy General Counsel Morocz telephonically from Sacramento.

Open Meeting:

1. **Call to Order and Roll Call.**

   Commissioner Wainwright called the meeting into order at 9:12 a.m. There was a quorum established for both Committees.

2. **Approval of Joint Rules and Regulations and Pilot Fitness Committee meeting minutes of April 4, 2012.**

   Staff did not have the minutes of April 4, 2012 available at the time of the meeting and approval of these minutes will be deferred until the following meeting.

3. Review of issues "set aside" in multiple previous Committee meetings.

   The Committee did not address this item.

4. Review completed draft document of pilot fitness regulations as amended by the Committee on April 4, 2012. Edit or change document consistent with review process, if necessary. **Possible Committee recommendation to the full Board to direct staff to commence work on a contract for a Market Analysis in furtherance of the formal rulemaking process.**

   The Committee did not address this item.

5. Review, discuss and edit as necessary, portions of draft document submitted to Board Counsel, Committee members, or Board staff for review and drafting outside of Committee meetings.

   The Committee did not address this item.

6. Review all forms suggested by the Pilot Fitness Study and by currently completed work on regulations. **Possible Committee recommendation to Board on draft forms to be included in regulations.**

   The Committees continued to review the forms. Following several minor language changes, the Committee turned their attention to Board Counsel's research on the relevance of HIPAA (Health Insurance Portability and Accountability Act) to our pilot fitness regime. The research revealed that the Board of Pilot Commissioners is not a "covered entity" under the act but that private physicians are. The consensus of the Committee was that most private physicians would want to use their own forms.

   The Committee then reviewed Board Counsel Eagan's "suggested changes for the 4.18.12 meeting." The first passage was a revision of section 217 which added a new section (b) which places the burden of providing information on the person being assessed, or that person risks a determination that they will be found not fit for duty. The Committee accepted this addition with minor changes.

   Attention was then turned to the second item of the suggested changes, "Disclosure and acknowledgement regarding health information and medical assessments." The Committee discussed where the disclosure should be placed. While there was no clear consensus at this point in time, member Morocz mentioned that the contract with the physicians will contain disclosure language. There was also a discussion concerning whether there was some other restriction on information exchange beyond HIPAA, such as the Hippocratic oath, and how there is a long-standing culture in the medical profession to retain privacy of medical information as to third-parties.

   Member Morocz noted that if a release appears in regulation, it has to be required by a law, which will have to be referenced.

Chairman Wainwright then directed the Committees attention to form two of six, "Request for Review of Fitness for Duty." This form and the form on three of six, "Statement of Fitness for Duty" were reviewed and slight edits were made. Vice President Johnston moved that we accept these versions of the forms as amended. Commissioner Cronin seconded the motion which was approved by a unanimous voice vote with Barbara Price abstaining.

7. Public comments on matters not on the agenda.

   There were none.

8. Proposals for additions to next committee meeting agenda.

   It was suggested that the set-aside list be edited to reflect that items one through ten have been reviewed.

9. Adjournment.

   The Committee adjourned at 11:49 a.m.

Respectfully Submitted,

Allen Garfinkle
Executive Director