

**Union of American Physicians and Dentists**  
 UAPD, the largest post-graduate doctors' union in the United States, represents thousands of physicians, dentists, and podiatrists, including those in private practice and those employed by the State of California and many California counties.

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**Oakland Headquarters**  
 180 Grand Avenue, Suite 1380  
 Oakland, CA 94612  
 800-622-0909  
 510-839-0193  
 Fax 510-763-8756  
 uapd@uapd.com

**Sacramento Office**  
 1225 Eighth Street Suite 570  
 Sacramento, CA 95814  
 800-585-6977  
 916-442-6977  
 Fax 916-446-3827  
 uapdsacto@uapd.com

**Southern California Office**  
 5777 W. Century Blvd Suite 1195  
 Los Angeles, CA 90045  
 800-504-8273  
 310-398-4038  
 Fax 310-398-6427  
 uapdla@uapd.com

## UAPD news in brief

**CSU NEWS:** California State University doctors are encouraged to mark their calendars for Saturday, October 23rd, which will be the date of UAPD's first statewide membership meeting just for CSU doctors. The meeting will be held in conjunction with other membership meetings in San Diego on that date. Having a separate session just for CSU will allow participants to focus on those issues that affect university doctors most. More information and registration forms will be sent to UAPD members later this summer.



Floyd Anscombe, M.D.

### UAPD GAINS MOMENTUM:

Doctors employed by Momentum for Mental Health in Santa Clara county have become the latest doctors to choose UAPD as their exclusive bargaining representative. Momentum is the largest private, nonprofit agency providing mental health services to adults in Santa Clara County. The new members are in the beginning stages of bargaining for their first contract, assisted by UAPD Senior Representative Patricia Hernandez, who also helped organize the group. UAPD welcomes the increasing number of non-profit clinic doctors who are interested in unionization.

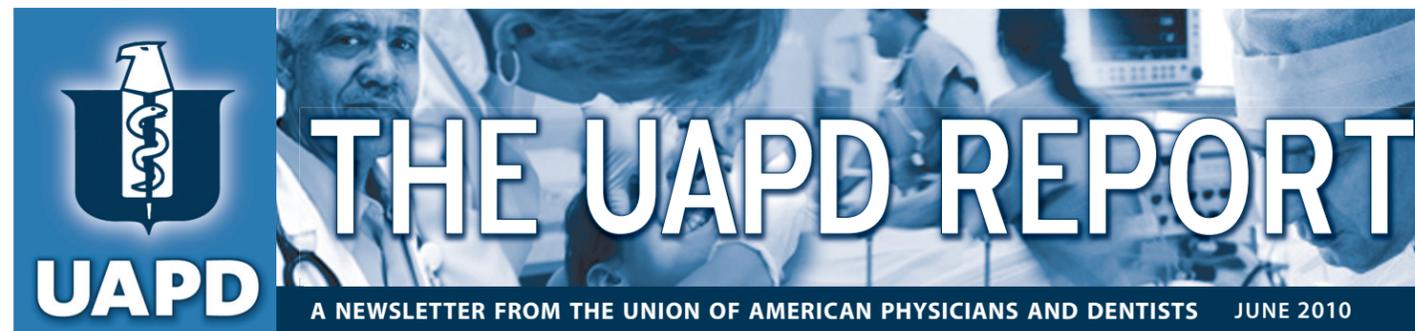


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 180 Grand Avenue, Suite 1380  
 Oakland, CA 94612

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Facing strong pressure from UAPD at the bargaining table...

## State Improves Its Proposal to Doctors

The UAPD Bargaining Team met with representatives of the State Department of Personnel Administration (DPA) on April 28th, May 19th, and again on June 10th. Responding to the UAPD Bargaining Team's strong rejection of the State's February 4th offer, on the more recent dates the DPA passed language that improved what they had proposed earlier in the year. On the plus side:

- The State withdrew its proposal for a 5-10% salary cut
- The State proposed increasing the maximum salary for all bargaining unit classifications by 5% at the end of the two year contract (on July 1, 2012)
- Furloughs end on June 30, 2010
- The State dropped its proposal to require doctors to contribute towards prefunding retiree health care benefits.

Despite that progress, there are still cuts on the table. The State has proposed:

- One mandatory 8-hour unpaid "personal leave day" each month for one year (reducing pay 4.65% that year)
- Requiring an additional 5% PERS employee contribution
- For new hires only, lowering the retirement formula for Miscellaneous/Industrial/ARP Members to 2% at age 60 and for State Safety Members to 2% at age 55

- Eliminating the Rural Health Care program.
- Eliminating two holidays (Lincoln's Birthday and Columbus Day) and giving one hour of ATO for every two hours worked on six holidays
- Insisting that UAPD not oppose any CalPERS changes supported by the Governor

State legislators have already come forward to challenge the legality of the last item on the list, which has been proposed for all the state-employee unions now in bargaining. UAPD believes that the political activities of union members should not be subject to curtailment by a MOU.

The UAPD Bargaining Team continues to believe that an agreement that satisfies both sides can be reached through collective bargaining. However, there is an increasing risk that the Governor will try to implement his Last, Best, and Final offer without reaching an agreement with the UAPD Bargaining Team and UAPD members. UAPD attorneys believe that Schwarzenegger has not passed through the necessary steps to legally implement a Last, Best, and Final offer, but the Governor has already shown his willingness to act first, and face legal consequences later, when it comes to State workers. There is additionally a risk, as bargaining continues, that the Legislature will pass wage and benefit cuts as part of a budget package. Even under this increased pressure, the UAPD Bargaining Team is working hard to reach the best possible agreement for doctors at the bargaining table.

### State Workers Cut to \$6.55/hr?

In 2008, Governor Arnold Schwarzenegger issued an Executive Order to cut wage rates for all state employees covered by the Fair Labor Standards Act (FLSA) to the federal minimum wage of \$6.55/hour, and to pay exempt employees like doctors \$455.00 per week. Citing legal and logistical reasons,

Controller John Chiang refused to implement the outrageous order, and was sued by Schwarzenegger as a result. The case is currently before the 3rd District Court of Appeal, with oral arguments scheduled for late June.

Now there are concerns among state-employee  
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# UAPD

## President's Message

Stuart Bussey, M.D., J.D.



### Beware of "Docs-in-a-Box"

The well dressed man on the TV screen sounded as if he were reading movie lines to the inmate sitting across the room on the exam table. "Mr. Fleming, it appears you have had a heart attack...a helicopter will take you to the hospital for treatment." It was so smooth and effortless, and all sponsored by NuPhysicia, a small Texas telemedicine company which, with Governor Schwarzenegger's blessings, is trying to convince the University of California (UC) to take over from CDCR as employer to UAPD's 800 prison doctors and dentists.

NuPhysicia has been involved in the delivery of healthcare by the University of Texas Medical Branch (UTMB) to Texas's 120,000 inmates since the early '90s. Now it wants to expand telemedicine into all areas of California's prison health care system. Interestingly, NuPhysicia is partially owned by UTMB, and one of its founding board members, Dr. John Stobo, is now acting as an avid proponent of the plan in his role as senior vice president for health sciences and services at UC. Aside from this potential conflict of interest, there are several serious problems with this UC telemedicine proposal.

For one, the purported savings of a billion dollars a year to California because of this plan is grossly exaggerated. It would be more in the range of 17-35 million dollars a year, and that's not including offsets for infrastructure, extra personnel and prisoner lawsuits. So where do you think the majority of savings would come from?—the severe downsizing of medical and dental staff and cuts to salaries! UC is a notoriously anti-union employer. Most importantly, quality and continuity of care and the doctor-patient relationship would greatly suffer with the indiscriminate, unrestricted use of telemedicine.

UAPD doctors and staff have vigorously presented these arguments to the press, the Legislature, the Receiver and especially to the UC Regents. We will continue to fight for real, human and consistent inmate care in the face of the " Docs-in-the Box ."



## Legal Update

In late May, the state Supreme Court granted Governor Arnold Schwarzenegger's request to hear one of the appeals he filed in response to a series of decisions made earlier this year; specifically the Supreme Court will review a Superior Court judge's decision regarding the furloughing of 500 state attorneys. That decision said that furloughing attorneys paid from sources other than the state fund was illegal; the same Superior Court judge handed down the same decision in a similar case filed by UAPD. The Supreme Court's decision to hear Schwarzenegger's appeal of the attorney case is important, as it could ultimately determine the legality of furloughs for all state employees, including doctors paid from non-state fund sources and those paid from the state fund. At stake now is the issue of back-pay, as unions including UAPD are fighting to have state employees reimbursed for the money lost to furloughs.



## Legislative Advocacy

UAPD is working hard to ensure that several bills regarding the use of telemedicine in State prisons do not undermine the ability of UAPD doctors to provide quality care in those settings.

Assembly Member Cathleen Galgiani has introduced three telemedicine bills this session: AB 1785, AB 2222, and AB 2668. The bills would require the California Department of Corrections and Rehabilitation (CDCR) to create an infrastructure for telemedicine that includes every state prison and to expand the range of medical services delivered by that telemedicine system. While these bills cover only CDCR, they are important to other state and county doctors as they could set a pattern for the use of telemedicine in the public sector in California.

UAPD expressed its concerns about the original content of the Galgiani bills to legislators and to the Receiver, as the bills contained language that could allow telemedicine to ex-

## Peer Review CME Draws Eager Crowd

On May 1, More than 100 union members travelled to Manhattan Beach to participate in the second offering from UAPD's Continuing Medical Education Program, entitled "Peer Review: The Good, The Bad, and The Ugly." Since 2009 UAPD has been offering complementary CME courses on compelling topics as a benefit to union members.

Attorney Erin Muellenberg and three UAPD board members – Stuart Bussey, J.D. M.D., Ronald Bortman, M.D., and Robert Weinmann, M.D. — analyzed the subject of peer review, exposing the benefits of a fair and rational peer review practice and the pitfalls associated with poorly performed peer review. The speakers took many questions from audience members, some of whom had their own strong opinions on the value of peer review. Towards the end of the session, doctors used what they learned to discuss how they would respond to a number of peer re-



CME Instructor Erin Muellenberg, J.D.

view scenarios, many drawn from the actual experiences of the speakers.

Immediately following the CME program, doctors enjoyed a union-sponsored luncheon with Ted Lieu, current State Assembly Member from Los Angeles. Assembly Member Lieu expressed his opposition to the governor's plan to move corrections health care to the University of California, and fielded questions on a range of topics from the assembled doctors. UAPD members were privileged to hear firsthand Assembly Member Lieu's insights on how to handle the many challenges facing the State of California today.

More complimentary CME courses will be held later this year. Union members can visit the website or look for paper mailings for more information on upcoming UAPD-sponsored CME classes in their area.



Executive Director Al Groh, Gloria Duarte, Assembly Member Ted Lieu, UAPD President Stuart Bussey, M.D., J.D.

Save the Date!

## Statewide Membership Meetings

For State-employed, County-employed, CSU, Private Practice & Retired Members

Saturday  
October 23, 2010  
in San Diego, CA

Special Steward

Training and a

Complimentary

CME Course will

be scheduled in

conjunction with

the membership

meetings. More

details to come.



# State of California Doctors

## SEPA Board Members Seated

On April 30th, four doctors were sworn in as new members of the State Employed Physicians Association (SEPA) Board: John Coyle, M.D., Ralph DiLiberio, M.D., Marcia Ehinger, M.D. and Ronald H. Lewis, M.D.. Mubashir Farooqi, M.D., assumed the role of SEPA President. The SEPA Board serves as advisor to the UAPD Board regarding all state doctor issues.

### The SEPA Board is:

Mubashir Farooqi, M.D.  
SEPA President  
Employed at DMH Patton

Cuong H. Nghiem, M.D.  
SEPA President Elect  
Employed at Lanterman Developmental Services

Hoe T. Poh, M.D.  
SEPA Secretary  
Employed at DMH Napa

J. Bryan Quattlebaum, D.D.S.  
Past President  
Employed at CDCR Sacramento

Stuart A. Bussey, M.D., J.D.  
UAPD President  
Retired from Department of Social Services

Floyd Anscombe, M.D.  
Employed at CSU Northridge

Orlando Chavez, D.P.M.  
Employed at Veterans Home Napa

John Coyle, M.D.  
Employed at Atascadero State Hospital

Ralph DiLiberio, M.D.  
Employed by Department of Health Services

Marcia Ehinger, M.D.  
Employed by Department of Public Health

Ronald H. Lewis M.D.  
Employed at Ironwood State Prison

Theresa Repasky, D.D.S.  
Employed by Department of Developmental Services



Mubashir Farooqi, M.D.



Cuong H. Nghiem, M.D.

## Ventura County

### Doctors Push County for First Contract

Ventura County managers are meeting with UAPD-represented doctors at the bargaining table, but they are insisting that the County no longer employs any of them. The Union is disappointed, but not surprised, at this latest maneuver on the part of a county administration that has tried—unsuccessfully-- to discourage the unionization of its doctors for more than four years.

A series of legal decisions, culminating in a decisive Public Employee Relations Board (PERB) victory earlier this year, supported UAPD's assertion that the doctors working in the county health clinics were in fact employees of Ventura County and thus able to

unionize. The weight of those decisions caused Ventura County to recognize UAPD earlier this year. After that recognition, however, the county modified its contract with the outside agency that supposedly runs the health clinics and claims that by doing so, it has ceased being an employer to clinic doctors. UAPD is standing up to this transparent attempt to thwart unionization of what are in fact county workers, and encouraging PERB to charge the county with contempt for ignoring its decision. State Legislators are also stepping in, including Assembly Member Pedro Nava, who called on the Ventura County Board of Supervisors to investigate and correct the blantly illegal, anti-union activities of some of those working under them.

As always, Ventura County doctors recognize what their bosses are up to, and remain undeterred. Negotiations with the County are still scheduled to continue.

*County shows clear contempt for a PERB decision in favor of doctors*



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## Legislative Update

pand beyond what most doctors deem appropriate. Speaking on the topic of telemedicine before the UC Regents in March, UAPD President Dr. Stuart Bussey remarked that while telemedicine can be a valuable tool in the hands of providers, "it should not be the main course" for providing health care in prisons or elsewhere. For that reason, UAPD has worked with legislators to amend the Galgiani bills to insert guarantees that telemedicine will not

be used to replace civil service doctors, that it will be limited to specialty care consultations, and that its use will be up to the discretion of the individual doctor.

UAPD continues to monitor the progress of these bills as they work their way through the Assembly. Doctors are encouraged to follow the progress of these bills and contact their labor representative if they have special insight on telemedicine to share.

## City and County of San Francisco

### Contract Extension Ratified by CCSF Members

On May 13, 2010, City and County of San Francisco UAPD members voted to ratify a two year contract extension that contained some economic concessions, which were designed to address the continuing budget crisis in that part of the state. CCSF had already put in motion a plan to layoff most doctors and rehire them at a reduced work week; as part of the agreement, CCSF retracted the immediate imposition of layoffs and reduction of hours.

Because the UAPD had a closed contract until 2011, the Union wrestled long and hard with the idea of reopening the contract this year to make further concessions, especially because at the beginning other employee organizations were not acknowledging that these steps were necessary to save jobs and services. However, most employee organizations did eventually agree to share in the economic sacrifices. Moreover, for most UAPD members the cost of the massive layoff plan was deemed too great, and by striking this deal the bargaining unit was able to avoid many aspects of that bad deal. Details of UAPD's agreement were sent to all members at the time of the vote.

The agreement makes also several important steps forward, for instance by incorporating language which will finally bring the City to the table to meaningfully discuss billing and lost revenues, errors in physician salary calculations, and other operations issues that could help forestall budget crises in the future. The agreement also seeks to exclude as many employees as possible from concessions, and protects the retirement calculations of those members who retire during the term of the contract.

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## Minimum Wage Threat

unions that the governor is pushing for a quick decision in the case because he plans to issue another Executive Order to cut state-worker wages this year, as a way of putting pressure on Democratic legislators during budget negotiations. The move would be a tremendous waste of State resources; aside from opening the State up to an avalanche of litigation from employees whose rights under the FLSA would likely be violated, it would involve making costly, potentially troublesome changes to an ancient payroll system that is scheduled to be scrapped in 2012. Moreover, working families across the country will suffer if politicians like Schwarzenegger are allowed to withhold public employee salaries to serve their own political interests. US Labor Secretary Hilda Solis, who opposed the 2008 minimum wage order, is again expected to play a role if Schwarzenegger goes forward with the plan again this year.

***"It's outrageous to blame a librarian, to blame a fireman for the financial mess that we find this country in."***

**-Gerard McEntee, President of the American Federation of State County, and Municipal Employees.**

## Pensions: The Sky is Not Falling

Whenever the economy is in dire straits, pundits and demagogues start looking for scapegoats. An all-time favorite is the myth of public employees and their allegedly fat – yet underfunded – pensions. The latest wrongheaded piece to promote this story is a USA Today op-ed printed on May 3, 2010 claiming that:

**“Many states have lavish programs that allow workers to retire in their 50s with ample pensions — and health insurance to cover them until Medicare kicks in.”**

But, as AFSCME President Gerald W. McEntee points out in a response published in the same paper:

**“The typical public employee represented by AFSCME earns, on average, about \$18,500 a year in retirement after a career of public service. For some, this is their only source of retirement income because they do not qualify for Social Security benefits.”**

Are these the lavish programs critics are talking about? USA Today goes on to say that “some states have simply failed to put away adequate funds to cover” these programs’ benefits. While that may be true, how is it the fault of public employees that politicians have ignored pension contributions, or that – thanks to Wall Street’s recklessness – pension funds got smacked around in the last few years?

Moreover, are these problems unsolvable? Not if you look at the facts. As Pres. McEntee states:

**“[O]ur public pension plans are designed for long-term stability, and virtually all of them have sufficient resources to weather this financial storm. More to the point, our pension funds can and will be rebuilt as our economy improves.”**

This is why proposals such as converting public pension plans to 401(k)-type programs – a position advanced by the USA Today and many right-wing pundits – are so harebrained. Why would we want to put our hard-earned retirement funds in the hands of the same Wall Street investors that gambled away trillions of dollars and generated the worst financial crisis since the Great Depression?

It is time to debunk these absurd claims and expose them for what they are: yet another attempt at undermining the hard work of public employees and the vital services they provide.



## California prison health care proposal pads a Texas company’s profits first and foremost

By Stuart Bussey | 05/13/10 12:00 AM PST

It came from out of nowhere: a “too-good-to-be-true” proposal that would purportedly slash costs for California’s prison healthcare system through the expanded use of telemedicine. Now suddenly, without any appropriate vetting or study, this proposal is being touted as a sound, fully baked solution.

It is not. Instead, it’s a sales proposal from a for-profit Texas corporation with only six employees, and with financial problems of its own. This company is looking to sell California hundreds of million of dollars in telemedicine equipment along with a whole lot of empty promises.

The private company, NuPhysicia, is an offshoot of the University of Texas Medical Branch (UTMB) – a public university in Texas that took over care of Texas inmates in 1994. UTMB owns 35% of NuPhysicia, created to sell versions of its prison telemedicine system inside and outside of the state of Texas. Recently, NuPhysicia presented its paper: “Assessment and Evaluation: California’s Opportunities for Improved Inmate Health Care Quality and Cost Controls.” Susan Kennedy, Governor Schwarzenegger’s chief of staff, gushed it is a “wholesale reform of the prison healthcare system,” that promises savings of \$1.2 billion annually.

Sounds good? Here’s the problem: The cost savings promised in the NuPhysicia proposal are grossly inflated. The \$1.2 billion dollar savings estimate in this proposal may actually be closer to the \$35 million/year that was actually saved in Texas. A 2006 LAO report estimates an even lower annual savings for California -- about \$17 million dollars/year. And those savings don’t account for the added costs of settling lawsuits that may result from the poor-quality of care that would result from the plan.

Under the NuPhysicia plan, inmates would spend, on average, 8 minutes per visit with an offsite doctor who sees them via a video hookup. This is acceptable for delivering certain types of specialty care to remote parts of the state, but not for providing the type of primary care that on-site doctors deliver. Compromising care in order to save money has the opposite effect — it leaves the state open to an endless cycle of litigation by inmates, continued federal control of the prison health care system, and higher cost solutions created by court appointees.

To add a veneer of credibility to its proposal, NuPhysicia has recommended transferring all of prison healthcare from the California Department of Corrections and Rehabilitation (CDCR) to the University of California (UC). While UC doctors, students and faculty on nine campuses conduct cutting-edge medical research, the UC system has no relevant experience to take on what the NuPhysicia delivery model proposes. UC would face extreme financial and legal exposure, NuPhysicia has much to gain by attaching itself to the prestigious institution; UC has much to lose by going down that road.

Texas has been the testing ground for the NuPhysicia healthcare delivery model that is being proposed for Cali-

**UAPD MEDIA PRESENCE: President Stuart Bussey, M.D., J.D. was joined by several state doctors as well as UC Faculty Member and State Assembly Candidate Dr. Richard Pan to make a highly successful presentation at the UC Regents public hearing on prison health care. UAPD had been educating the Regents for weeks about the significant drawbacks of the NuPhysicia plan, and they clearly heard the doctors’ message. The Los Angeles Times, KCBS, and other media outlets provided great coverage of our speakers.**

Center for Medicare Services publishes electronic health record rules

## EHR Adoption: First Incentives, Then Penalties

The Center for Medicare & Medicare Services (CMS) has published its interim final rules for “meaningful use” of Electronic Health Records (EHR). Incentives will be distributed over five years in three stages. The first stage includes 25 objectives for doctors, including computerized order entering, e-prescribing, and drug and formulary checks. Stages 2 and 3 will expand that list of objectives. If doctors meet Stage 1 requirements by 2011-12, they can earn \$44,000 over 5 years. But if they don’t

meet the requirements by 2015, the bonuses will become penalties. Many small practices and those who have had to un-install EHR systems have complained that the 2011 deadline does not give them enough time to meet these objectives. They suggest instead an incremental approach that would allow them to choose which objectives to pursue. Stimulus money isn’t the only factor driving all private practitioners towards EHR. A March 2010 Navinet study showed that the need to manage

overhead costs and ICD-10 implementation were even more important factors in driving adoption of EHR.

