

Report to Council

Government Affairs Committee

January 12, 2023

GAC meeting of January 10, 2023

1. **Welcome and Introductions:** The Co-chairs welcomed members to the meeting and reviewed the draft agenda.
2. **Federal and APA Issues:** The committee discussed at some length an interrelated set of 3 issues regarding the prescribing of certain psychiatric medications and related governmental monitoring, issues that play out at Federal, State, and local levels.
 1. **SCPS and CSAP Surveys of psychiatrist regarding challenges with pharmacy filling of prescriptions** (Dr. Wood): Dr. Wood described the results thus far from the SCPS/CSAP survey of psychiatrists regarding problems that they and their patients experience in ensuring the pharmacies fill prescriptions for medications, especially opioids and psychostimulants. Committee members expressed concern that these problems appear common and pervasive, caused by medication supply shortfalls and pharmacy and pharmacist concerns regarding appropriate medication practices and potential state and federal sanctions. Committee members will agendaize these concerns for CSAP GAC and recommend further outreach to psychiatrists statewide to complete the survey and then, based on the findings, develop an advocacy strategy to address the issue.
 2. **Coordinating with APA and CSAP on Pharmacy Issues** (Co-Chairs, Drs. Solding, Wood, Burchuk, et al.): The Committee discussed the national scope of psychiatric prescribing challenges and recent APA communications on the issue. The consensus was that greater APA focus on development and advocacy of specific solutions would be useful. Committee members will agendaize these concerns to CSAP GAC and recommend that CSAP meet with APA Division of State Government Relations to develop a strategy based on the results of the SCPS/CSAP survey.
 3. **CA DOJ, Medical Board, and local oversight of prescribing practices** (All): Committee members discuss the disturbing lack of clarity by the CA DOJ and Medical Board concerning the use of CURES data to investigate and sanction certain physicians based on prescribing patterns and associated demands upon psychiatrists to release confidential patient information not related to specific patient complaints or allegations of violations. Efforts by CSAM to seek greater clarity were discussed, and a strong consensus developed to request that CSAP work with CSAM to bring this issue to administrative and legislative attention, seeking clarity regarding investigative algorithms, sources of DOJ and MBC authority for investigations, basis

for any subsequent disciplinary actions, and perception of the use by these agencies of physician harassment to shape physician behavior that does not violate any existing regulations.

Motion 1: That the SCPS Council shall direct SCPS CSAP representatives to convey to CSAP its recommendation that CSAP work with CSAM and other stakeholder groups to bring this issue to administrative and legislative attention, seeking clarity regarding investigative algorithms, sources of DOJ and MBC authority for investigations, basis for any subsequent disciplinary actions, and confirmation or refutation of the perception of the use by these agencies of physician harassment to shape physician behavior that does not violate any existing regulations. (See Attachment 1)

3. **CSAP GAC (CGAC):** SCPS GAC reps to CSAP GAC (Dr. Wood (SCAP GAC Chair), Bindra, Halpin, Little, Shaner): The January CSAP GAC meeting is scheduled for the 19th of the month.
 1. Update on Legislation ideas collected from membership by CSAP: CSAP GAC will meet on January 19, 2023, to prioritize the ideas collected for 2023 advocacy.
 2. New CSAP Policy Platform and next steps for SCPS: The new CSAP High Level Policy Platform, approved by all DBs last month, was discussed: The committee unanimously voted to bring an SCPS Council motion to adopt the Platform for use by SCPS.

Motion 2: That the SCPS Council adopts the CSAP High Level Policy Platform for use by SCPS. (See Attachment II)

3. Update on Status of Area 6 Council/CSAP joint committee on advocacy framework (Heather Silverman). Dr. Silverman reported that the Area 6 Council meeting is scheduled for January 17, 2023, and that the CSAP (and SCPS) request that Area 6 Council agree to join with CSAP in convening an Area 6 Council/CSAP committee to jointly establish a framework for cooperation to ensure effective statewide advocacy and smooth coordination of the advocacy activities of SCPS, CSAP, and the Area 6 Council.
4. **CSAP Board:** (SCPS CSAP Board members Zeb Little, Rod Shaner) reported that the next CSAP Board meeting is scheduled for January 17, 2023. During the last month, the Board declined a proposed MOU by another psychiatric advocacy group that would accept that group's selection of a psychiatric representative to the CMA Council on Legislation. They also shared recent news that CMA Executive Committee voted today to grant a criteria

exemption today to recognize the California State Association of Psychiatrists (CSAP) at the sole entity representing psychiatrists as a part of the CMA Specialty Delegation.

5. SCPS advocacy issues

1. **Update on SCPS/NAMI Annual Leadership Meeting 12/12/2023** (Dr. Goldenberg et al.) The committee discussed the draft agenda for the upcoming SCPS/NAMI meeting and agreed with Dr. Goldenberg's suggestions regarding SCPS leads for discussions of various planned topics at the meeting. Dr. Goldenberg will further discuss topics with leads as necessary, with every effort to encourage open-ended dialogue with NAMI over simple transmission of information.
2. **Update on SCPS Private Practice Townhall meeting planning and advocacy coordination between GAC and Access to Care, Private Practice, and Managed Care Committee (Dr. Goldenberg [Chair, PPPC], Dr. Friedman [Chair, ACC], Dr. Burchuk [ACC], GAC Co-chairs,).** Dr. Goldenberg led the committee discussion of ongoing work on the townhall meeting and shared the current working document.
3. **AB 133 implementation of CHSA Data Exchange Framework and mandatory Data Sharing Agreement requirements and timeline** (Dr. Goldenberg et. al) The committee discussed the impending deadline of January 31, 2023, pursuant to passage of AB 133, to sign and submit the mandatory Data Sharing Agreement requirements. The sense of the committee was that SCPS should send out a reminder of the deadline to SCPS members ASAP, as there appeared to be some confusion about the mandatory nature of the requirement. Other potential legal issues related to compliance with AB 133 requirements in the future were also discussed, but the committee felt that it would be unwise to for SCPS to independently explore these areas for purposes of offering legal advice to SCPS members at this time.
6. **Other business:** The committee discussed a potential SCPS motion regarding changing the existing procedures that require use of MemberClicks for SCPS committee communications, as it impedes easy communication among committee members and is resource intensive. It was agreed to table the discussion until the next meeting, as there were unresolved questions regarding whether the committee was the best source for such a motion.
7. **Next SCPS GAC Meeting:** February 7, 2023, from 7:00 PM – 9 PM.

Attachment I: Motion regarding SCPS request to CSAP to work with CSAM and other organizations to address the lack of clarity by the CA DOJ and Medical Board concerning the use of CURES data to investigate and sanction certain physicians

Motion 1: That SCPS Council adopt the following resolution:

Whereas,

SCPS and CSAP have received numerous complaints from psychiatrists, and administrative attorneys who represent psychiatrists, concerning requests by the Medical Board of California (MBC) for patients records in the absence of any specific patient complaints or signed waivers of confidentiality; and

Whereas,

These MBC requests appear to be related to physician prescribing practices or patterns without clear allegations of improper prescribing; and

Whereas,

The investigations associated with the MBC requests are time-consuming, costly, and stressful; and

Whereas,

These MBC investigations impose a significant negative effect on potentially legal and clinically appropriate prescription of medications and on patient confidentiality; and

Whereas,

The chilling effect on practice may adversely impact proper patient care and a patient's legal right to confidential care; and

Whereas,

The DOJ and Medical Boards authority for engaging in these activities is unclear, the algorithms used to identify physicians for investigation have not to our knowledge been developed or validated in association with any recognized medical organizations or objective measures, and the monitoring and oversight of these activities is insufficiently transparent;

Therefore, be it resolved that

The SCPS Council shall direct SCPS CSAP representatives to convey to CSAP its recommendation that CSAP work with CSAM, CMA and other stakeholder groups to bring this issue to administrative and legislative attention, seeking clarity regarding investigative algorithms, basis

of DOJ and MBC authority for investigations, basis for any subsequent disciplinary actions, and confirmation or refutation of the perception by psychiatrists and administrative attorneys that the use of patients confidential information is being used by these agencies to investigate, bully and harass physicians prescribing behavior even when it does not violate any existing regulations or law.

Attachment II: Motion regarding SCPS use of the CSAP High-Level Policy Platform

Motion 2: That SCPS Council adopt the following resolution for SCPS use of the CSAP High-Level Policy Platform

January 12, 2023

Whereas,

SCPS does not currently have a High-Level Policy Platform; and

Whereas,

The SCPS Council has previously approved the new CSAP High Level Policy Platform; and

Whereas,

The current SCPS policy platform does not lend itself to adaptation as a summary document that can be easily used for communication with membership and external entities;

Therefore, be it resolved that:

The SCPS Council adopts the CSAP High Level Policy Platform for use by SCPS.