



MEDICAL BOARD OF CALIFORNIA

Protecting consumers by advancing high quality, safe medical care.

Agenda Item 3

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Gavin Newsom, Governor, State of California | Business, Consumer Services and Housing Agency | Department of Consumer Affairs

**The Embassy Suites by Hilton
9801 Airport Blvd
Los Angeles, CA 90045
Malibu Room
February 29, 2024- March 1, 2024
MEETING MINUTES**

Thursday, February 29, 2024

Due to timing for invited guests to provide their presentations, the agenda items below are listed in the order they were presented.

Members Present:

Randy W. Hawkins, M.D., President
Laurie Rose Lubiano, J.D., Vice President
Michelle Anne Bholat, M.D
James M. Healzer, M.D
Kristina D. Lawson, J.D
Asif Mahmood, M.D
Richard E. Thorp, M.D
Veling W. Tsai, M.D
Eserick "TJ" Watkins
Felix C. Yip

Members Absent:

Nicole A. Jeong, J.D
Hemant Dhingra, M.D

Staff Present:

Aaron Bone, Chief of Legislation and Public Affairs
Sean Eichelkraut, Information Technology Manager I
Jacoby Jorgenson, Business Services Office Manager
Keoni Lucas, Associate Governmental Program Analyst
Marina O'Connor, Deputy Director
Angelaya Strother, Associate Governmental Program Analyst
Reji Varghese, Executive Director
Kerrie Webb, Legal Counsel

Agenda Item 1 Call to Order/Roll Call/Establishment of a Quorum

President Randy W. Hawkins, M.D called the meeting of the Medical Board of California (Board) to order on February 29, 2024, at 11:06 a.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Public Comments on Items not on the Agenda ([Link To Video](#))

[Public Comments on Agenda Item 2 were made by:](#) Patrick Foley, Reverend Ruth Summers Tweedle, Dr. Shannon Udovic-Constant, Dr. Anna McBoll, Vee, Rosie Arthursdotter, Linda Bresnahan, Eric Andrist, Randolph Holmes, Sierra Coughlin, Dr. Max Blumberg, Tracy Dominguez, Dr. Rachel White, Dr. Heidi Maupin, Marian Hollingsworth, Dr. Francis Gill, Dr. Ha Le, Dr. Khadijah Lang, Michele Monserratt-Ramos, Dr. Saif Azam, Dr. Casey Orozco-Poore, Dr. Mustafa, and Jefferey Hanes.

Agenda Item 3 Approval of Minutes from the November 30- December 1, 2024 Quarterly Board Meeting ([Link To Video](#))

Members had a discussion regarding the format of the minutes, and whether minutes are legally required.

Ms. Lawson moved to approve the minutes S:/ Dr. Healzer, 8-0-2 (Dr. Thorp and Dr. Yip abstained) (2 Absent)

[Public comments on Agenda item 3 were made by:](#) Reverend Ruth Summers Tweedle, unidentified person, Rosie Arthursdotter, Eric Andrist, Vee, and Marian Hollingsworth.

Agenda Item 4 President's Report, including notable accomplishments and priorities ([Link to Video](#))

President Randy W. Hawkins stated that there were two resignations on the Board, Mr. Lee and Mr. Brooks. He welcomed a new appointee to the Board, Dr. Dhingra and welcomed Dr. Yip back to the Board. He also stated that Ms. Jeong will be returning to her service on the Board soon. President Hawkins identified several events and activities that he has participated in since the last Board meeting.

Dr. Hawkins indicated that the Board plans on having a subject matter expert speak on artificial intelligence in the near future. He also announced that the Board will be reviewing the mental and physical health questions on the licensing applications, and that he will be appointing a task force of two Board members to assist. As part of this review, the Board will be holding an interested parties meeting in the future. He also stated that he will be attending an observership with the Pregnancy-Associated Mortality Review Committee to further the discussion relating to maternal health outcomes. He closes his statements by

announcing that the priorities for the Board include the Complaint Tracking System, the Complainant Liaison Unit, and the complainant/representative interview prior to the closure of quality-of-care cases.

[Public comments on Agenda Item 4 were made by:](#) Eric Andrist

Agenda Item 5 Board Member Communications with Interested Parties ([Link to Video](#))

Dr. Mahmood stated that he has been in communication with doctors and applicants regarding the Board's processes, and he advised them to contact the Board.

Ms. Lubiano and Dr. Hawkins met with Michele Monserrat-Ramos from Consumer Watchdog.

[Public comments on Agenda Item 5 were made by:](#) Reverend Ruth Summers Tweedle.

Agenda Item 6 Executive Management Reports ([Link to Video](#))

Mr. Eichelkraut provided an update on the IOS application, the Complaint Tracking System, the License Verification System (LVS), the Department of Health Care Access and Information (HCAI) Survey, licensees printing their own wallet licenses, the Direct Online Certification Submission (DOCS), and the plan for the complaint form redesign. Ms. O'Connor provided a Licensing Program update and advised that Board no longer has a licensing backlog. She also provided an update on the significant strides being made to go paperless by requiring medical schools and postgraduate training program to submit documents electronically to the Board through DOCS.

Mr. Varghese provided the Enforcement Unit summary, and provided updates on the work to improve collaboration in the enforcement process; identifying, recording, and tracking enforcement costs; training for medical consultants; work to transition enforcement to a more paperless process; the Complainant Liaison Unit; and the Expert Reviewer Program. Mr. Varghese provided the administrative summary, and provided updates on staffing and the vacancy rate, which he reported was 13.9%.

Mr. Varghese proceeded with the budget update and indicated fiscal year (FY) 2022-2023 ended with 2.0 months of reserve. Mr. Varghese stated that the Board received a fee increase that took effect January 1, 2024, The fund condition report, however, shows that the Board may need to get another loan to ensure the Board's solvency while the fee increase takes effect. He further reported that the Board continues to implement cost saving measures.

Mr. Varghese also provided an update on media relations and external communications.

Board members, Mr. Varghese, Ms. O'Connor, and Mr. Eichelkraut discussed the Executive Management Reports.

[Public comments on Agenda Item 6 were made by:](#) Patrick Foley, and Reverend Ruth Summers Tweedle, and Eric Andrist.

Agenda Item 7 Updates from External Stakeholders ([Link to Video](#))

Melissa Gear, Deputy Director for Board and Bureau Relations (BBR) for DCA, congratulated and welcomed Dr. Yip and Dr. Dhingra to the board.

Among other updates, Ms. Gear provided information about Tamika Moss, the new Secretary of the Business, Consumer Services, and Housing Agency; the budget deficit and DCA's efforts to save money; DCA's Diversity, Equity, and Inclusion (DEI) activities and trainings; the Consumer Connection magazine; mandatory trainings for staff; the Open Meeting Act and meeting options; the implementation of a hybrid work environment requiring staff to report to the office at least two days a week; the implementation of the Federal Professional License Portability and State Registration Portal; the implementation of Senate Bill (SB) 372 regarding gender and/or name changes; and Board member orientation training.

Kathleen Nicholls and Stephanie Whitley provided the Health Quality Investigation Unit (HQIU) update. Among other information, Ms. Nicholls stated that HQIU is working on maximizing cost savings by merging offices. She indicated that HQIU has 26 investigator vacancies, which is a 32% investigation vacancy rate. She reported that HQIU has three new investigators.

Ms. Whitley provided an update on meetings and trainings attended by HQIU medical consultants, supervisors, and investigators.

The Board members and presenters discussed the updates.

[Public comments on Agenda Item 7 were made by:](#) Reverend Ruth Summers Tweedle, Patrick Foley, and Rosie Arthursdotter.

Agenda Item 8 Discussion and Possible Action on Legislation ([Link to Video](#))

Mr. Bone presented on the following bills:

8.D.: Assembly Bill (AB) 2412

Establishes the California Body Contouring Practitioner Act. The bill establishes a council and requires the Medical Board of California (Board) to appoint a California-

licensed physician to the council's Board of Directors, who will act as the council's Medical Director and a "professional liaison" to the Board.

Dr. Healzer moved to oppose the bill unless amended.S:/ Lawson 10-0-0 (2 Absent)

[Public comments on Agenda Item 8D were made by:](#) Judy Casp, Mario Solis Marij, Shala Cortez, Patrick Foley, Dr. Kathy Planick, Rosie Arthursdotter, and Marian Hollingsworth.

8.F. and 8.G.: AB 2860 and AB 2864

These bills both relate to the Licensed Physicians from Mexico Pilot Program (LPMPP). AB 2864 would extend the existing licensees for another three years. AB 2860 would replace the existing pilot program with a new program that would be in existence for approximately 20 years and would authorize increasingly larger cohorts of licensees (including up to a specified number of psychiatrists in each cohort) who would be authorized to practice medicine under a non-renewable three-year license and be employed by federally qualified health centers (FQHCs).

Mr. Bone and members discussed licensing, enforcement, funding, and administrative matters relating to the bills.

Ms. Lawson Moved to support if amended based on staff's recommendations S:/ Dr. Mahmood 10-0-0 (2 Absent)

[Public comments on Agenda Item 8F/G were made by:](#) Arnolando Torres, Graciela Soto Perez, Arcadio Viveros, Dr. Olga Padron, Dr. Marco Angulo, Dr. Laura Stampleman, Dr. Hector Flores, Dennis Cuevas-Romero, and Rosa Vivien Fernandez.

8.H.: AB 3097

Establishes the Radiologist Assistant (RA) Practice Act, to be administered by the Medical Board of California (Board) and creates a Radiologist Assistant Committee within the Board. Requires the Board to adopt regulations that establish the scope of practice of RAs, including fee amounts, registration requirements, and related administrative procedures required to implement this program.

Ms. Lawson moved to oppose the bill unless amended based on staff's recommendations S:/ Mahmood 10-0-0 (2 Absent)

[Public comments on Agenda Item 8H were made by:](#) John Houghton

8.J.: SB 607

This bill expands current law to require a prescriber to discuss risks and dangers of opioids and opioid addiction to all patients, except when already being treated for substance use disorders in certain facilities or receiving hospice care. Current law exempts from this requirement those diagnosed with chronic intractable pain and only applied to minors.

Dr. Tsai Moved to support the bill S:/ Mahmood 10-2 (Dr. Bholat and Dr. Thorp opposed)-0 (2 Absent)

[Public comments on Agenda Item 8J were made by:](#) Patrick Foley, Reverend Ruth Summers Tweedle, and Rosie Arthursdotter.

President Randy W. Hawkins, M.D adjourned the meeting at 5:28 p.m.

RECESS

Friday, March 1, 2024

Due to timing for invited guests to provide their presentations, the agenda items below are listed in the order they were presented.

Members Present:

Randy W. Hawkins, M.D., President
Laurie Rose Lubiano, J.D., Vice President
Michelle Anne Bholat, M.D
Hemant Dhingra, M.D
James Healzer, M.D
Kristina D. Lawson, J.D
Asif Mahmood, M.D
Richard E. Thorp, M.D
Veling W. Tsai, M.D
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Members Absent:

Nicole A. Jeong, J.D
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Staff Present:

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Aaron Bone, Chief of Legislation and Public Affairs
Sean Eichelkraut, Information Technology Manager I
Jacoby Jorgenson, Business Services Office Manager
Keoni Lucas, Associate Governmental Program Analyst
Marina O'Connor, Deputy Director
Angelaya Strother, Associate Governmental Program Analyst
Reji Varghese, Executive Director
Kerrie Webb, Legal Counsel

Agenda Item 9 Call to Order/Roll Call/Establishment of a Quorum

President Randy W. Hawkins, M.D called the meeting of the Medical Board of California (Board) to order on March 1, 2024, at 9:13 a.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 10 Presentation: “Rethinking Autism: Identity, not Disease” ([Link to Video](#))

President Randy W. Hakins introduced Dr. Alice Kuo.

Among other topics, Dr. Alice Kuo discussed some terminology relating to autism, and the current preference is to use “people with autism,” rather than “autistic people.” The best practice if you are unsure of someone’s preferred term is to check in with the person. Dr. Kuo advised that the term “neurodivergent” explains the phenomenon of individuals with different brains, whether they are formally diagnosed with autism, or not. Dr. Kuo shared findings from a UCLA study, where parents/caregivers of young children identified as autistic were interviewed about the diagnosis process. She pointed out that many parents/caregivers feel that they are already behind from the moment their child is diagnosed with autism. The family needs a lot of support, and if families felt more supported, they would be less likely to turn to questionable alternative treatments. Dr. Kuo discussed that the majority of autistic research investment is going into preventing it, so very little is going into helping people with autism lead successful, healthy lives. Very little autism research funding relates to people with autism who are more than three years old. Dr. Kuo pointed out that autism does not shorten life expectancy, but being autistic does, because of the health disparities. Dr. Kuo shared two video clips that are used for training medical students at UCLA. Dr. Kuo indicated that we need to be looking at maximizing adult potential, including providing support for the individual to work and have meaningful relationships outside of their family. She emphasized that primary care providers are very important in providing care to patients with autism, since autism is not a pediatric condition and kids with autism grow up. UC-LEND provides training and support for primary care providers to help reduce the health disparity

impacting patients with autism. UC-LEND has training available to anyone who is interested.

The Board members and Dr. Kuo discussed the data and findings.

[Public comments on Agenda Item 10 were made by:](#) Reverend Ruth Summers Tweedle, Lucas Evenson, Patrick Foley, Eric Andrist, and Rosie Arthursdotter.

Dr. Hemant Dhingra arrives at 10:40 am

Agenda Item 11 Discussion on the Final Report of the Enforcement Monitor ([Link to Video](#))

Les Lombardo presented the enforcement monitor report, including the methodology and findings relating to reviewing the complaints closed in the Central Complaint Unit (CCU), the investigation and discipline process, physician and surgeon demographic data analysis, and additional enforcement program issues. Within these sections, Les Lombardo discussed several recommendations to the Board based on the findings of the report, which was included in the meeting materials.

The Board Members and Les Lombardo discussed the findings of the report.

Mr. Varghese discussed the current work being done to start implementing recommendations made by the enforcement monitor.

[Public comments on Agenda Item 11 were made by:](#) Reverend Ruth Summers Tweedle, Patrick Foley, Marcus Freedman, Michele Monserratt-Ramos, Kimberly Turbin, Marian Hollingsworth, Alka Airy, and Maria Ibarra Navarette.

Agenda Item 12 Discussion and the Possible Action on the Recommendations from the Special Faculty Permit Review Committee ([Link to Video](#))

Dr. James Healzer discussed the applicants for the Special Faculty Permit; Dr. Antonio Marcillo Padulo Omuro and Dr. Yoginder Singh. Upon approval, Dr. Antonio Omuro will become Professor of Neurology at Stanford and will be appointed as chair of Neurology and Dr. Yoginder Singh will be a Professor of Pediatrics at UC Davis

Dr. Thorp Moved to support the recommendation from the Special Faculty Permit Committee and approve Dr. Omuro's and Dr. Singh's Special Faculty Permits S:/ Mahmood 10-0-0 (2 absent)

[Public comments on Agenda Item 12 were made by:](#) Reverend Ruth Summers Tweedle.,

Agenda Item 13 Discussion and Possible Action on the Proposed Rulemaking and Proposed Responses to Public Comments Received During the 45-Day Comment Period on Originally Noticed Regulatory Text for Citations and Fines (Title 16 California Code of Regulation Sections 1364.10 and 1364.11) [Link to Video](#))

Kerrie Webb presented the proposed rulemaking to amend the Board's citation and fine regulations under Title 16 of the California Code of Regulations sections 1364.10 and 1364.11. Ms. Webb indicated that the proposed changes streamline the list of citable offenses and add provisions so that it is clear that a violation of the Medical Practice Act, the Licensed Midwifery Practice Act of 1993, any regulation adopted by the Board, and any other statute or regulation upon which the Board may base a disciplinary action is a citable offense. This broader authority is in line with other DCA boards, including the Board of Pharmacy, the Dental Board, the Board of Registered Nursing, and the Board of Chiropractic Examiners. Ms. Webb further explained that the proposed rulemaking also raises the cap of fines imposed to the full extent authorized by law.

Ms. Webb stated that the rulemaking went through the 45-day comment period, and the Board received comments from the California Medical Association (CMA). She indicated that the summary of CMA's comments and proposed responses are included in the materials for Agenda Item 13, along with a copy of CMA's actual letter. Ms. Webb represented that CMA wants the Board to maintain list of citable offenses, rather than to amend the regulation to indicate that a violation of the relevant practice act or any other statute or regulation upon which the Board may base a disciplinary action is a citable offense. Ms. Webb advised that staff recommend the Board reject the comments and move forward with finalizing the rulemaking as noticed.

Dr. Thorp asked about the risk of broadening the Board's citation and fine authority. Ms. Webb stated that CMA raised the issue of licensees pressuring the Board to issue citations versus imposing discipline. She pointed out that licensees do try to get the Board to issue a citation rather than impose discipline, but the Board staff uses discretion to determine when a disciplinary action is necessary to protect the public or when a citation with or without a fine and/or order of abatement may be used to get the licensee's attention and correct their behavior. Citations are public. They can also be challenged by the licensee through an informal conference, and, if the licensee is unsatisfied with the result of the informal conference, the licensee can go to hearing, and those cases come before the Board members.

No other Board members had questions or comments.

Ms. Webb requested a member to make a motion to:

- 1) Direct staff to proceed as recommended to reject the comments as specified and provide the responses to the comments as indicated in the meeting materials; and,
- 2) Direct staff to take all steps necessary to complete the rulemaking process including the filing of the final rulemaking package with the Office of Administrative Law, authorize the Executive Director to make any non-substantive changes to the proposed regulations and the rulemaking documents, and adopt the proposed regulations as noticed for Title 16 CCR sections 1364.10 and 1364.11.

Dr. Healzer made the motion requested by staff S:/ Dr. Thorp. Motion carried 10-0-0 (2 absent).

Public comments on Agenda Item 13 were made by: Lucas Evenson, Reverend Ruth Summers Tweedle, Beverly Taylor, as follows:

Lucas Evensen stated that CMA maintains that establishing a clear list of statutes and regulations eligible for a citation and fine provides physicians and consumers with more transparency about how the Board will handle specific deviations from the law. CMA asked the Board to reconsider the proposed rulemaking.

Reverend Ruth Summers Tweedle commented she was in favor of a list of what the Board would be looking at in order to determine whether or not something has taken place, and then the public needs to be able to see what took place in the investigation.

Beverly Taylor asked about what applies to dental. Ms. Webb indicated that she would put the speaker in touch with the Dental Board after the meeting.

Agenda Item 14 Discussion and Possible Action on the Proposed Rulemaking Proposed Responses to Public Comments Received During the 45-Day Comment Period on Originally Noticed Regulatory Text for the Physician and Surgeon Health and Wellness Program (Title 16 California Code of Regulation Sections 1357 through 1357.16, and 1361.5 (c)(3)) ([Link to Video](#))

Kerrie Webb discussed the proposed regulations to establish the Physician and Surgeon Health and Wellness Program (PHWP) (Title 16 California Code of Regulation Sections 1357 through 1357.16, and 1361.5 (c)(3)), and referred the members to the materials provided.

Ms. Webb stated that the proposed text went through a 45-day public comment period, and a public hearing was held on November 14, 2023. Ms. Webb pointed out that the

noticed text, the summary of the comments and the proposed responses, as well as the actual written comments, and the transcript from the hearing were provided in the materials.

Ms. Webb stated that the comments from the patient advocates, professional associations, and subject matter experts with experience in physician health programs were negative, and that this does not appear to be the program that interested parties had in mind. Ms. Webb further pointed out that the substantive issues raised by the interested parties could not be resolved with a change to the regulatory language. She indicated that many of the changes requested by professional associations and subject matter experts were not consistent with statutory authority or the Uniform Standards. Many of the comments expressed concern that the requirements in the PHWP could discourage physicians from seeking help or could be harmful to those who enroll in the program.

Due to the nature of the comments, Ms. Webb indicated that the Board may wish to consider whether it wanted to move forward with a program under the current legislative framework. If this is not the program that members want to implement, then the members could direct staff to withdraw the rulemaking or set it for a future Board meeting to discuss best practices for a physician health program as compared to the proposed PHWP.

Ms. Webb presented the members with several options: Go forward with the text as written; withdraw the proposed regulation and not take any further action at this time; reschedule this topic for a future meeting to hear from experts on best practices for physician health programs, and then decide how to proceed on the proposed regulations for the PHWP.

Ms. Lawson indicated she would like to move forward with the program, because it is unacceptable for California to not have a program. She would also like to continue working with the Legislature to make changes to the statutory structure, since this program does not follow best practices and is unlike any other program in the nation.

Dr. Thorp also wants to have a program, but this program does not appear to follow best practices.

Dr. Mahmood says that it would not hurt to wait a little longer to hear from experts at the next meeting.

Dr. Bholat supports Dr. Mahmood's comments. She would like a little more time to think this through.

Dr. Healzer asked about the timeline for approving the proposed regulations, and whether we would have to start over if the decision was put off until May. Ms. Webb discussed the deadlines involved in the rulemaking process.

Dr. Tsai stated that he thinks it would be better to not go forward with a program that does not follow the best practices and that we would require the Board to have to keep going back to try to fix it.

Ms. Lubiano would support a motion that had specific guidance to staff. She is concerned about seeking perfection instead of making progress, and agrees with Ms. Lawson's position.

Dr. Thorp made a motion to table this item until the May meeting to obtain further information on best practices for physician health programs S:/ Dr. Mahmood 7-3 (Ms. Lawson, Ms. Lubiano, Dr. Hawkins opposed)-0 (2 absent)

[Public comments on Agenda Item 14 were made by:](#) Marcus Freedman, Reverend Ruth Summers, Michele Monserratt-Ramos, Lucas Evenson, Maria Ibarra Navarrette, Marian Hollingsworth, and Eric Andrist.

Agenda Item 15 Election for Secretary ([Link to Video](#))

Ms. Lawson nominated Dr. Healzer as secretary. Dr. Mahmood nominated Mr. Watkins as secretary.

Dr. Bholat, Dr. Healzer, Ms. Lawson, Dr. Thorp, and Dr. Tsai voted for Dr. Healzer. Ms. Lubiano, Dr. Mahmood, Dr. Yip, and Dr. Hawkins voted for Mr. Watkins. Dr. Dhingra abstained. (2 absent)

Dr. Healzer accepted the position as secretary.

[Public comments on Agenda Item 15 were made by:](#) Patrick Foley, Reverend Ruth Tweedle Summers, and Marian Hollingsworth.

Agenda Item 16 Future Agenda Items ([Link to Video](#))

Ms. Lubiano suggested a discussion on doctor recruitment methods.

Dr. Mahmood suggested researching other programs like the Mexico Pilot Program to assist doctors from other countries to come to California.

Dr. Bholat a possible presentation on the Research Advisory Panel (RAP C) program, relating to addiction treatment.

Dr. Tsai suggested a discussion on legislative mandate on the boundaries of programs and information from other programs that have been done.

Dr. Dhingra requested a discussion about methods to make the licensing process for physicians who want to come to California more simplified.

[Public comments on Agenda Item 16 were made by:](#) Reverend Ruth Summers Tweedle, Michele Monserrat-Ramos, and Patrick Foley.

Agenda Item 17 Adjournment

Dr. Hawkins thanked everyone for their participation, reminded attendees that the next Medical Board meeting is on May 23-24, 2024, and adjourned the meeting.

DRAFT