



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

California Board of Accountancy
2450 Venture Oaks Way, Suite 420
Sacramento, CA, 95833
May 23, 2024- May 24, 2024

MEETING MINUTES

Thursday, May 23, 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
Michelle Anne Bholat, M.D.
Hemant Dhingra, M.D.
James M. Healzer, M.D.
Nicole A. Jeong, J.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, M.D.

Members Absent:

Laurie Rose Lubiano, J.D., Vice President

Staff Present:

Aaron Bone, Chief of Legislation and Public Affairs
Sean Eichelkraut, Information Technology Manager I
Jacoby Jorgenson, Business Services Office Manager
Marina O'Connor, Deputy Director
Anthony Parker, Associate Governmental Program Analyst
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

Randy W. Hawkins, M.D., called the meeting of the Medical Board of California (Board) to order on Thursday, May 22, 2024, at 11:50 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:](#) Dr. Melissa Tran, Dylan Izasepa, Reverend Ruth Summers Tweedle, Dr. Ignacio Santana, Tiffany Graham, Terra Kittle, Dr. Khadijah Lang, and Marian Hollingsworth.

Agenda Item 3 Approval of Minutes from the February 29- March 1, 2024, Quarterly Board Meeting ([Link to Video](#))

Dr. Thorp moved to approve the minutes S:/ Ms. Lawson, 10-0-1 (Ms. Jeong abstained) (1 Absent)

[Public comments on Agenda Item 3 were made by:](#) Reverend Ruth Summers Tweedle and Terra Kittle.

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

President Randy W. Hawkins, M.D., stated that his tenure on the Board was coming to an end. He thanked the individuals who have helped him in his journey on the Board, including Governor Brown, Governor Newsom, public advocates, fellow Board members and staff. President Hawkins identified several events and activities that he had participated in since the last Board meeting.

Dr. Hawkins also announced that the Board will be reviewing the mental and physical health questions on the licensing applications, and he appointed Dr. Tsai and Ms. Jeong to a task force to assist. As part of this review, the Board will be holding an interested parties meeting in the future. He also stated that he attended an observership with the Pregnancy-Associated Mortality Review Committee to further the discussion relating to maternal health outcomes. He closed his statements by thanking everyone for allowing him to serve on the Board.

The Board members thanked Dr. Hawkins for his service on the Board.

[Public comments on Agenda Item 4 were made by:](#) Reverend Ruth Summers Tweedle, Michele Monserratt-Ramos, and Monte Goddard.

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.

Dr. Bholat stated that she spoke with PTL applicants.

No public comments were made on this agenda item.

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

Mr. Eichelkraut provided an update on the iOS application, the License Verification System (LVS), the Complaint Tracking System, 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 mentioned, among other things, all documents are being scanned into Breeze. She also stated that there are significant strides being made to go paperless by requiring medical schools and postgraduate training programs to submit documents electronically to the Board through DOCS, with an exception of international medical schools. Ms. O'Connor explained the collaboration between FSMB and DCA on how to streamline application processes through electronic transfers to Breeze.

Mr. Varghese provided the Enforcement Unit summary and provided updates on, among other things, the Central Complaint Unit, and the Expert Reviewer Program training for medical consultants, the Discipline Coordination Unit (DCU) and their vacancies, the Probations Unit, and the Complaint Investigation Office.

Mr. Varghese provided the administrative summary, including updates on staffing and the vacancy rate, which he reported was below 13%.

Mr. Varghese proceeded with the budget update and stated that the Board received a fee increase that took effect January 1, 2024. He stated that staff predicted that this year's revenue will be higher than the previous fiscal year and referred to the current fund condition. Mr. Varghese stated that the \$10 million loan will be repaid by June 21, 2024.

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:](#) Kimberly Chiton, Michele Monserratt-Ramos, Marian Hollingsworth, Alka Airy, and Maria Ibarra Navarrette.

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

Melissa Gear, Deputy Director for Board and Bureau Relations (BBR) for DCA, thanked Dr. Hawkins for his service on the Board.

Among other updates, Ms. Gear provided information about Tamika Moss, the new Secretary of the Business, Consumer Services, and Housing Agency, scam awareness; DCA's Diversity, Equity, and Inclusion (DEI) activities and trainings; outreach; and end of the fiscal year travel claims.

Kathleen Nicholls and Stephanie Whitley provided the Health Quality Investigation Unit (HQIU) update. Among other information, Ms. Nicholls discussed the timeline of the cases. She indicated that HQIU has 25 investigator vacancies, which is a 30% 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:](#) Monte Goddard.

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

Mr. Bone presented on the following bills:

AB 796 (Weber) Athletic Trainers

Mr. Bone indicated that the bill was amended to provide for title protection, and no longer involves the Board. Consequently, no action was required.

[Public comments on Agenda Item 8A were made by:](#) Benjamin Bodea.

AB 1991 (Bonta) Licensee and Registrant Records

The bill requires the Medical Board of California (MBC) and other healing arts boards with the Department of Consumer Affairs (DCA) to collect specified demographic information about its licensees at the time of renewal. Under current law, licensees are requested to provide this information.

AB 1991 specifies that boards shall not deny a license renewal solely because the licensee fails to provide the required information.

Board members and staff discussed the bill.

Dr. Thorp moved to Oppose the Bill, Unless Amended S:/ Dr. Healzer, 5-4 -1 (Dr. Bholat, Ms. Lawson, Mr. Watkins, and Dr. Yip Opposed; Dr. Mahmood abstained) (1 Absent)

[Public comments on Agenda Item 8B were made by:](#) Arnolito Torres.

AB 2164 (Berman) Physicians and Surgeons: Licensure Requirements: Disclosure

The bill prohibits the Medical Board of California (MBC) from requiring an applicant for a physician's and surgeon's (P&S) license or a postgraduate training license (PTL) to self-disclose the following:

- A condition or disorder that does not impair the applicant's ability to practice medicine safely.
- A condition or disorder for which the applicant is receiving appropriate treatment and which, because of the treatment, does not impair the applicant's ability to practice medicine safely.

Ms. Lawson moved to Support the Bill S:/ Dr. Bholat, 9-2 (Dr. Thorp and Mr. Watkins Opposed) (1 Absent)

[Public comments on Agenda Item 8C were made by:](#) Lucas Evanson, Alka Airy, Kimberly Turbin, Eric Andrist, Maria Ibarra Navarrette, Abril Dozal, Marian Hollingsworth, and Michele Monserratt-Ramos.

AB 2860 (Garcia) Licensed Physicians and Dentists from the Mexico Programs

The bill updates and extends the existing Licensed Physicians from Mexico Pilot Program (LPMPP) for approximately 20 years and authorizes 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 to be employed by federally qualified health centers (FQHCs).

Ms. Lawson moved to Support the Bill, if Amended as Recommended by Staff S:/ Dr. Mahmood, 11-0 (1 Absent)

[Public comments on Agenda Item 8E were made by:](#) Arnaldo Torres.

AB 2864 (Garcia) Licensed Physicians and Dentists from Mexico Pilot Program: Extension of Licenses

This bill extends the expiration date of the existing Licensed Physicians from Mexico Pilot Program (LPMPP) licensees for a period of three years from their current expiration date. Provides for an unspecified fee amount to be paid to extend the license expiration date.

Dr. Tsai moved to Support the Bill, if Amended as Recommended by Staff S:/ Dr. Mahmood, 11-0 (1 Absent)

[Public comments on Agenda Item 8F were made by:](#) Arnaldo Torres.

AB 3030 (Calderon) Health Care Services: Artificial Intelligence

This bill requires health facilities, clinics, and physicians in solo or group practice that use generative artificial intelligence (GenAI) to generate written or verbal patient communications to provide certain disclaimers to their patients.

D. Mahmood moved to Support S:/ Dr. Dhingra, 10-1 (Dr. Thorp Opposed) (1 Absent)

No public comments were made on Agenda Item 8G.

SB 357 (Portantino) Vehicles: Physicians and Surgeon Reporting

For a seven-year period, starting January 1, 2030, physicians would be permitted, instead of required per current law, to report to the Department of Motor Vehicles (DMV) certain information about a patient they have diagnosed with a condition severe enough to be likely to impair their ability to operate a motor vehicle. Maintains a mandatory reporting requirement for physicians to report to the DMV if their patient is of driving age and has been diagnosed with a case of Alzheimer's disease or a related disorder.

Provides physicians immunity from any civil, criminal, employment, or licensing/disciplinary action against them related to making or not making a report authorized by this bill.

The Board maintained an opposed position, so no vote was needed.

No public comments were made on Agenda Item 8J.

SB 1468 (Ochoa Bogh) Healing Arts Boards: Informational and Educational Materials for Prescribers of Narcotics: Federal “Three Day Rule”

This bill requires each health professional licensing board that licenses a prescriber to develop informational and educational material regarding the federal Drug Enforcement Administration’s (DEA) “Three Day Rule” to help ensure prescriber awareness of existing medication-assisted treatment pathways to serve patients with substance use disorder.

Requires those boards to post these materials on their website and distribute them to each licensed prescriber’s email address on file. In addition, requires the Medical Board of California (Board) to disseminate these materials to each acute care hospital in California annually (email distribution is allowed).

Dr. Mahmood moved to support the bill S:/ Dr. Healzer, 11-0 (1 Absent)

No public comments were made on Agenda Item 8M.

Agenda Item 9 Discussion and Possible Action on a New Legislative Proposal to Allow a Physician and Surgeon License who Fails to Meet the Requirements of the Business and Professions Code Section 2096 (a) to Renew their License
[\(Link to Video\)](#)

Staff presented a legislative proposal that would allow a licensee who had not completed 36 months of training to renew their license, provided they remain enrolled in an approved postgraduate training program. If the licensee left their program, their license would be changed to delinquent status. If the Board approves, then staff would finalize the language and present it to the Legislature for their consideration.

Dr. Tsai moved to support the bill S:/ Ms. Lawson, 11-0 (1 Absent)

Public comments on Agenda Item 9 were made by: Lucas Evenson.

Randy W. Hawkins, M.D., adjourned the meeting at 4:00 p.m.

RECESS

Friday, May 24, 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 M. Healzer, M.D.
Kristina D. Lawson, J.D.
Richard E. Thorp, M.D.
Veling W. Tsai, M.D.
Eserick "TJ" Watkins
Felix C. Yip, M.D.

Members Absent:

Nicole A. Jeong, J.D.
Asif Mahmood, M.D.

Staff Present:

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

Agenda Item 10 Call to Order/ Roll Call/ Establishment of Quorum

Randy W. Hawkins, M.D., called the meeting of the Medical Board of California (Board) to order on Friday, May 23, 2024, at 9:03 A.M A quorum was present and due notice was provided to all interested parties.

Agenda Item 11 Presentation on Successful Elements of Physician Health Programs ([Link to Video](#))

Ms. Lubiano arrived at 9:11 a.m.

President Hawkins introduced Christopher Bundy, M.D., and Paul Earley, M.D.

Dr. Bundy, the Executive Director of the Washington Physicians Health Program and Dr. Earley, the Medical Director of the Georgia Professionals Health Program, Inc., presented on successful elements of physician health programs (PHP), and compared best practices with the current proposed regulations to establish the Physician Health and Wellness Program. California is one of only three states that does not have a PHP. Dr. Bundy and Dr. Earley recommended the Board seek legislative changes to establish a PHP that aligns with best practices consistent with the Federation of State Physician Health Programs, which cannot be accomplished under the current statutory authority and proposed regulations. The Board members and Dr. Bundy and Dr. Earley discussed the data and findings shared during their presentations.

[Public comments on Agenda Item 11 were made by:](#) Marcus Freedman, Dr. Shannon Udovic-Constant, Reverend Ruth Summers Tweedle, John Rosenburg, Kimberly Turbin, Michele Monserratt-Ramos, Paul Yoder, David Gravetter, Alka Airy, Marian Hollingsworth, Maria Ibarra-Navarette, Tracy Dominguez, and Bernard McNamara.

Dr. Dhingra left during the break.

Agenda Item 12 Discussion and Possible Action on Proposed Rulemaking and 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. Board members and staff considered the proposed rulemaking, and because the Board cannot establish a PHWP that follows best practices for physician health programs under its current statutory authority, the Board decided to not proceed with the proposed rulemaking and to seek a legislative change, instead.

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

- Direct staff to withdraw the proposed rulemaking and work with stakeholders to develop proposed language for a legislative fix.

Dr. Healzer made the motion requested by staff S:/ Ms. Lawson, motion carried 9-0 (3 absent)

[Public comments on Agenda Item 12 were made by:](#) Lucas Evenson, Marcus Freedman, Michele Monserratt-Ramos, and Marian Hollingsworth.

Agenda Item 13 Discussion and Possible Action on Proposed Regulations to Add Title 16 California Code of Regulations Section 1352.3 (Fees for Petition and Penalty Relief) and to Amend 16 CCR section 1359 (Petitions for Reinstatement or Modification of Probation) to Establish Fees for Petitions for Penalty Relief) ([Link to Video](#))

Kerrie Webb discussed the proposed regulations to add Title 16 California Code of Regulations Section 1352.3 (Fees for Petition and Penalty Relief) and to Amend 16 CCR section 1359 (Petitions for Reinstatement or Modification of Probation) to Establish Fees for Petitions for Penalty Relief).

Ms. Webb discussed the process of the petitions for penalty relief, and the average costs for processing, litigating, and hearing petitions for modification and early termination of probation, and petitions for reinstatement of a revoked or surrendered license

Pursuant to the new authority to establish fees for petitions for penalty relief under Business and Professions Code section 2307.5, staff proposed regulations to set the fees to cover the cost for processing, litigating, and hearing petitions for penalty relief and also proposed to amend outdated language in regulation relating to such petitions. The fee will be broken into two stages – the first for Board staff review, and the second for the litigation and hearing process - and will not be refundable.

Dr. Tsai asked about whether the regulations should account for future cost increases. Ms. Webb indicated that it would complicate the rulemaking to try to account for future cost increases that are hard to predict, and that staff can update regulations in the future to account for cost increases warranting a change.

Dr. Thorp commented that he recognized there are costs associated with processing petitions for penalty relief, and wonders if a lower fee would be appropriate.

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

- 1) Approve the text.
- 2) Direct staff to prepare the necessary regulatory documents to submit to the Department of Consumer Affairs (DCA) and the Business, Consumer Services and Housing Agency (Agency).
- 3) Upon DCA and Agency approval, direct staff to submit the documents to the Office of Administrative Law (OAL) to notice the proposed regulatory language to add section 1352.3 and amend section 1359 of Title 16 of the California Code of Regulations; and
- 4) If no substantive adverse comments are received during the 45-day comment period, direct staff to finalize the rulemaking file and submit it to DCA and

Agency, and upon approval, to the Office of Administrative Law, and to make any technical or non-substantive changes and adopt the text as noticed without returning to the Board.

Ms. Lawson made the motion requested by staff S:/ Dr. Tsai, motion carried 8-1 (Dr. Thorp Opposed) (3 absent)

[Public comments on Agenda Item 13 were made by:](#) Lucas Evenson from the California Medical Association expressed concern about how much individuals would have to pay if they were seeking penalty relief. He suggested that there is a middle ground between paying no costs and paying all costs, and physicians who are safe to practice should be encouraged to return to practice. Reverend Ruth Summers Tweedle asked what the rulemaking was about, and whether people were having to pay fees to get a job.

Agenda Item 14 Update and Discussion on the Midwifery Advisory Council Meeting ([Link to Video](#))

Madeline Wisner, the chair of the Midwifery Advisory Council (MAC), provided an update on the previous MAC meeting that was held in February 2024.

No comments were made on Agenda Item 14.

Agenda Item 15 Election of the Board President and Other Vacant Board Officers, if Necessary ([Link to Video](#))

Dr. Hawkins nominated Ms. Lawson as President.

The members voted 9-0 in favor of Ms. Lawson being president..

No comments were made on Agenda Item 15.

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

Dr. Hawkins and Dr. Bholat requested an Artificial Intelligence presentation.

Ms. Lawson requested a discussion on accountability and coordination between state agencies.

Dr. Healzer requested an update on the impact on cost recovery on the Board's fund condition, experience with collections, a timeline for the repayment of the loans, and a 2025 meeting schedule.

Dr. Thorp suggested a discussion of the fragmentation of healthcare delivery system and requested a discussion with the Board of pharmacy about opioid prescriptions and would also like data on Fentanyl.

Dr. Tsai suggested a presentation on adverse events and the procedures similar to the organization, BETA HEART.

Dr. Bholat suggested a presentation on substance abuse data from other healing arts organizations.

[Public comments on Agenda Item 16 were made by:](#) Reverend Ruth Summers Tweedle and Monte Goddard.

Agenda Item 17 Closed Session ([Link to Video](#))

Pursuant to Government Code Section 11126(a)(1), the Board will meet in closed session to conduct the annual evaluation on the Executive Director

Return to Open Session

Agenda Item 18 Adjournment ([Link to Video](#))