



MEDICAL BOARD OF CALIFORNIA

Protecting consumers by advancing high quality, safe medical care.

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

WebEx Online

February 4 – 5, 2021

MEETING MINUTES

Thursday, February 4, 2021

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

Members Present:

Kristina D. Lawson, J.D., President
Alejandra Campoverdi
Dev GnanaDev, M.D.
Randy W. Hawkins, M.D., Secretary
Howard R. Krauss, M.D., Vice President
Ronald H. Lewis, M.D.,
Laurie Rose Lubiano, J.D.
Asif Mahmood, M.D.
Richard E. Thorp, M.D.
Cinthia Tirado, M.D.
Eserick "TJ" Watkins
Felix C. Yip, M.D.

Staff Present:

Aaron Bone, Chief of Legislation and Public Affairs
Valerie Caldwell, Associate Governmental Program Analyst
Charlotte Clark, Information Technology Supervisor I
Sean Eichelkraut, Information Technology Manager I
Jenna Jones, Chief of Enforcement
Jacoby Jorgensen, Staff Services Manager I
Nicole Kraemer, Information Technology Specialist I
Natalie Lowe, Information Technology Specialist I
Marina O'Connor, Chief of Licensing
William Prasifka, Executive Director
Regina Rao, Associate Governmental Program Analyst
Elizabeth Rojas, Staff Services Analyst
Emmalee Ross, Information Officer I
Alexandria Schembra, Associate Governmental Program Analyst
Reji Varghese, Deputy Director
Carlos Villatoro, Public Information Officer II
Kerrie Webb, Staff Counsel

Members of the Audience:

Eric Andrist, The Patient Safety League
Glenn Backes

Joseph Cachuela, California Medical Association
Gloria Castro, Attorney General's Office
Yvonne Choong, California Medical Association
Severiano Christian, California State Senate
Brian Clifford, Department of Consumer Affairs
Mary Kate Cruz Jones, Department of Consumer Affairs
Maximiliano Cuevas, Clinica de Salud del Valle de Salinas
Matthew Davis, Attorney General's Office
Phil Deters, Attorney General's Office
Nataly Diaz, California Primary Care Association
Julianne Fellmeth, University of San Diego
Bridget Gramme, University of San Diego
Angela Haskins, Haight, Brown & Bonesteel, LLP
Christina Hildebrand, A Voice for Choice
Marian Hollingsworth, The Patient Safety League
Carrie Holmes, Board and Bureau Relations
David Kan, M.D.
Alex Kral
Susan Lauren
Neal Mehra
Lila Mirrashidi, Business, Consumer Services and Housing Agency
Michele Monserratt-Ramos, Consumer Watchdog
Kathleen Nicholls, Health Quality Investigations Unit
Kristen Ogden
Catrina Reyes, California Academy of Family Physicians
Hanna Rhee, Black Patients Matter
Collin Ross, San Ysidro Health
LeAnna Shields, Attorney General's Office
Laura Sweet, Department of Consumer Affairs
Mary Sylla, Drug Policy Alliance
Ryan Tacher, Department of Consumer Affairs
Laura Thomas, San Francisco AIDS Foundation
Arnoldo Torres
Nancy Trego, Kaiser Permanente
Jeannette Zanipatin, Drug Policy Alliance

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

Ms. Lawson called the meeting of the Medical Board of California (Board) to order on February 4, 2021, at 2:02 P.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

Ms. Lauren commented on being a surgical assault survivor and her case against Dr. Saul Berger. Ms. Lauren gave liposuction statistics, including patient harm and mortality rates. Ms. Lauren expressed her dissatisfaction with the Board and in the outcome of her case.

Ms. Rhee shared her concerns of healthcare disparity due to inexperienced medical experts used by the Board. Ms. Rhee commented on the importance of racial and ethnic diversity and religious tolerance.

Ms. Hildebrand expressed her disappointment in the Board for not having agenda items that were requested at previous Board meetings. Ms. Hildebrand asked the Board to add agenda items requested from the public.

Ms. Hollingsworth commented on the previous day's confirmation hearing, saying Board members should know Board statistics. Ms. Hollingsworth requested the Board take up the issue of telehealth and how doctors identify themselves to patients.

Mr. Andrist expressed his optimism with having Ms. Lawson as the Board president. Mr. Andrist also expressed his gratitude to Mr. Watkins for his effort put forth during the panel meeting and the time he puts in for the full Board meetings. Mr. Andrist commented on the previous day's confirmation hearing and spoke of his complaints submitted to the Board.

Agenda Item 3 Approval of Minutes from the November 12 - 13, 2020 Quarterly Board Meeting

Ms. Lawson asked if there were any additions or corrections to be made for the Board minutes.

Dr. Krauss requested corrections for comments made under agenda item five and stated that he emailed Ms. Caldwell his specific corrections.

Dr. Hawkins requested a correction to a statement Dr. Lewis made under agenda item seven, changing the word "Gate" to "State".

Mr. Watkins requested corrections for comments made under agenda item three and stated that he would email his specific corrections to Ms. Caldwell

Ms. Lawson asked for a motion to approve the minutes from the November 12 - 13, 2020, Board meeting.

Dr. Lewis moved to approve the meeting minutes/S: Dr. Krauss

Ms. Lawson asked for comments from the public.

Mr. Andrist commented that the intent of public comments is not being relayed in the minutes and that the minutes are not an accurate representation.

Ms. Rhee commented that she does not accept the minutes as they promote white privilege. Ms. Rhee also commented that the Board should utilize medical experts with a diversified background.

Ms. Hollingsworth commented that the Board meeting minutes are watered down, citing agenda item 23.

Ms. Monserratt-Ramos agreed with Mr. Andrist's comments, saying that her specific comments were not listed. Ms. Monserratt-Ramos requested that the public's comments be documented.

Ms. Lawson asked Ms. Caldwell to take the roll.

Motion carried 12-0

Agenda Item 4 President's Report, including notable accomplishments and priorities

Ms. Lawson began by announcing the Governor's newly appointed Board member, Ryan Brooks, saying he will be at the next Board meeting.

Ms. Lawson reviewed the Board's website, including resources available to licensees and information from the California Department of Public Health (CDPH) in response to COVID-19. Ms. Lawson also mentioned that the 2020 Sunset Review Report, the most recent podcast episode, and new CURES requirements are all available on the Board's website.

Ms. Lawson asked for questions or comments from the Board members. Hearing none, Ms. Lawson asked for comments from the public.

Ms. Rhee commented that she is not surprised that the President's Report does not mention issues regarding minority healthcare.

Mr. Andrist commented on the mandatory website maintenance causing the site to be down all weekend, saying it is unconscionable.

Agenda Item 5 Board Member Communications with Interested Parties

Ms. Lawson stated that she had an introductory meeting with the California Medical Association (CMA). Ms. Lawson also stated that she has met regularly with those interested in the Mexico Pilot Program, including Senator Caballero, the Department of Consumer Affairs (DCA), Business, Consumer Services and Housing Agency (BCSH), and representatives from advocates of the program. Ms. Lawson commented that she's received communications from the public related to COVID-19 vaccinations and the Board's ongoing business.

Dr. Hawkins asked Ms. Lawson about the volume of inquiries she's received.

Ms. Lawson replied that she receives inquiries anywhere from once a week to several times a week, depending on the topic, saying that it is not an insignificant amount but that it isn't overwhelming.

Mr. Watkins asked if the Board is going to continue having interested parties meetings.

Ms. Lawson replied that she believes the meetings will continue and it will be discussed later in the Board meeting.

Ms. Lawson asked for comments from the public.

Ms. Rhee commented that she hopes black patients are not marginalized during future interested parties meetings.

Agenda Item 6 Executive Management Reports

Mr. Prasifka began by sharing that Board staff had several meetings with Ms. Lawson and Dr. Krauss as well as meetings with BCSH, DCA, and other interested parties in relation to the Mexico Pilot Program. Mr. Prasifka also commented on meetings with legislative staff and advocates relating to telehealth, the Board's Sunset Review, and legislation introduced in 2021. Mr. Prasifka mentioned that Board staff met with the California Society of Addiction Medicine on matters of mutual interest.

Mr. Prasifka gave a staffing update, noting that the Board has 178.2 permanent full-time positions with a vacancy rate of 10%. In the budget update, Mr. Prasifka noted that the Board's financial position continues to marginally improve and projected a surplus at the end of the fiscal year, saying that an anticipated loan for this year has been postponed to next year.

Mr. Prasifka reported that Board staff collaborated with DCA, the Department of Justice (DOJ), and the Board of Pharmacy to launch an outreach program to inform physicians about the security arrangements for paper forms used to write controlled substances. Mr. Prasifka also reported on the news releases to announce the Board's new president, vice president, and secretary, as well as the posting of the fall 2020 edition of its newsletter.

Mr. Prasifka gave an update on remote working, saying over 60% of Licensing staff, 40% of Enforcement staff, and 80% of Information Systems Branch (ISB) staff are working remotely. Mr. Prasifka added that ISB is continuing to adjust for accommodating additional Board and HQIU staff working remotely.

Mr. Prasifka commented on patient advocacy forums, saying that Board staff has been working on commencing these forums, with expectations that the first meeting will happen before the next full Board meeting and will proceed on a quarterly basis.

Mr. Prasifka gave an update on the ISB unit, reporting that the Direct Online Certification Submission (DOCS) portal now represents 156 medical schools and 455 postgraduate training bodies, BreEZe has been adapted to facilitate the update of the physician survey, progress has been made in allowing physicians to print their own wallet cards and licenses, the Board's website is being refreshed and redesigned, the online complaint form is being redesigned in order to capture as much relevant information in the early stages as possible, and that a WebEx training for the Medical Expert Program was held in January.

Mr. Prasifka reported that the Central Complaint Unit's (CCU) average number of days to initiate a complaint has been coming down over the past six months and is now at six days. Mr. Prasifka also reported that the average amount of days to complete the processing of a complaint in CCU is 137 days in the second quarter, which is an improvement from the first quarter, the total number of pending complaints decreased by more than 50% in the past year, and complaints over one year have decreased by more than 80%.

Mr. Prasifka reported that the Complaint Investigation Office (CIO) has closed 65 complaints and transmitted 21 cases to the Attorney General's Office (AGO). Mr. Prasifka referred to the metrics, saying it appears there has been a reduction in complaints received, but if we adjust for being halfway through the year, we are on target and staying consistent with historical figures. Mr. Prasifka commented that the complaint initiation timeframes and average days to complete complaints in CCU are down.

Mr. Prasifka referred to the Pending Enforcement Caseload Summary chart, saying that it is not informative to just look at a snapshot but instead we need to compare one time period to another. Mr. Prasifka explained that the chart shows progress is being made in closing out old complaints, every complaint is being dealt with properly, easier complaints are being handled efficiently and effectively, and the more difficult cases are being invested in.

Mr. Prasifka gave an update on the Licensing Unit, saying the Board is issuing more licenses than applications received and that the postgraduate training license (PTL) surge has been largely dealt with. Mr. Prasifka commented that good progress has been made given that a significant volume of staff are working remotely.

Dr. GnanaDev asked what the Board is doing for cost savings.

Mr. Prasifka replied that fewer complaints is an important driver in lowering costs and that the Board is referring less cases to HQIU. Mr. Prasifka noted that there is hope that there has been improvement in the Board's financial position since there is a lag between performance and the budget.

Dr. GnanaDev commented that the complaints will fluctuate and he would like to know what the Board can structurally come up with for cost reduction.

Mr. Prasifka commented that the Board wants to do more internally and wants to increase its regulatory toolkit. Mr. Prasifka commented on treating complaints in a non-adversarial manner to get costs under control.

Dr. GnanaDev asked about the Board communicating with the public during the complaint process.

Mr. Prasifka explained that at the initial stage of a complaint, an initial review is conducted, and once the complaint goes to an investigation there may be instances when the complainant is contacted. Mr. Prasifka continued, saying the complainant is informed of what is happening at the various stages of the process and that there will be an enforcement process presentation during the Board meeting. Mr. Prasifka noted that this is something that can be improved, and being a cumbersome legal process, it can be a problem for any enforcement agency.

Dr. Mahmood commented that it is the Board's responsibility to communicate to the complainant, whether that be a family member of the victim or the actual victim. Dr. Mahmood continued, saying the Board cannot sort out the facts unless we speak with the complainant. Dr. Mahmood commented that the Board should make available the complaint process and how long an investigation takes to be more transparent. Dr. Mahmood asked if Board staff can provide the last five to seven years of enforcement processing times

Mr. Watkins thanked Mr. Prasifka, Mr. Varghese, and the management team in achieving a 7% pending enforcement caseload. Mr. Watkins asked how teleworking staff are doing in terms of their morale.

Mr. Prasifka replied that they are doing well, explaining that the staff who are teleworking want to and it facilitates their work-life balance. Mr. Prasifka explained that it is difficult to build morale and camaraderie with people you don't see, but the Board's active management reaches out to staff to make sure they receive the support they need.

Mr. Watkins commented that a lay person may not be able to understand the Board's matrices and charts, nor are they able to see all of the enforcement cases that the panels decide on. Mr. Watkins asked if Board staff could prepare a report every quarter of all the cases that were decided on by the panels that lists the case name, the section of the law that it relates to, and what the panel decision was. Mr. Watkins explained that this could provide transparency and build trust with the Board and advocacy groups, as well as give the Board insight and show gaps where better decisions could be made.

Mr. Prasifka commented that this information is available in the Board's newsletter but staff can work on a user-friendly version of the request.

Mr. Watkins commented that the information in the newsletter is not the same and that a quarterly list in one location would be a good tool to have.

Dr. Yip commented that he is always looking for ways to maximize resources and cut costs without compromising quality, and that a lot of resources are spent during the enforcement process. Dr. Yip continued, saying the Board may need to stratify cases to save on resources. Dr. Yip also commented on having an online platform to show where cases are in the enforcement process.

Dr. Thorp commented that budget issues are still quite a concern and that he is especially concerned with AGO expenses, citing the expenditures and budget given in Mr. Prasifka's

report. Dr. Thorp commented that, even after the raise given to AGO staff, the averages have not improved, and asked why there is a disparity with the budget and expenditures.

Mr. Prasifka replied, saying the fees from the AGO have increased and that the only way forward to improve the expenditures is to refer less cases to the AGO and to try to do more internally. Mr. Prasifka commented that the Board is legislatively limited and it is difficult to control costs with outside agencies.

Dr. Thorp explained that his concern is that the Board has gone over the budget for AGO services by a significant amount and at the same time the average days to file a complaint by the AGO has increased, even after they received a raise.

Mr. Varghese replied that most of the spending is in personnel services, and that the budget is an estimate which may not take into account retirement payouts. Mr. Varghese commented that Board staff will look at detailed reports to bring back additional information.

Dr. Thorp commented that his question is about AGO expenditures being more than over half of the budget within the first six months of the year, and that with staff at the AGO being paid more, they should work more efficiently.

Mr. Varghese reiterated that detailed reports will be requested and looked over to come back with additional information.

Dr. Thorp asked if there is a way the Board can track ongoing costs with the AGO and their pattern of filing charges, saying it is concerning that the Board has no control over that area. Dr. Thorp mentioned the confirmation hearing, saying he would like to have additional information at the next hearing.

Ms. Lawson suggested that Board members ask Ms. Castro the questions they have about the AGO during her update.

Ms. Lubiano asked what kind of training the Board offers its expert reviewers beyond the regular training and guideline manual. Ms. Lubiano also asked what immediate improvements can be made to the training process and how we can prioritize improving it.

Mr. Prasifka replied that the expert reviewer training is an important part of the process, but it is not the only part. Mr. Prasifka explained that Board staff are consistently reviewing the work of the experts and trying, where necessary, to remediate in order to increase the quality of work. Mr. Prasifka commented that he would like to bring the Board to a point where being a medical expert is seen as prestigious and will attract the most eminent physicians. In answering Ms. Lubiano's second question, Mr. Prasifka replied that better training is needed, and that staff needs to reach out to reviewers who may not be providing quality work to recommend individual training.

Ms. Campoverdi asked if the Board can get a demographic breakdown of its expert reviewers and also commented that she would like to see more diversity in the medical experts.

Mr. Prasifka commented that Board staff can provide this request.

Dr. Tirado commented on pending cases that could take up to two years and asked what kind of cases those are. Dr. Tirado also asked if the Board has a goal in terms of timing to close cases.

Mr. Prasifka replied that there is a lot of information in the charts, but the information becomes more useful as we develop more of a longitudinal analysis, saying that the goal is, as we add to it, an aging analysis can be done to focus on the oldest cases. Mr. Prasifka explained that there are several reasons that cases can be very old, including ongoing civil litigation or other legal issues. Mr. Prasifka stated that it is important that priority is given to the oldest cases.

Dr. GnanaDev commended Board staff for moving from paper to electronic processes in the Licensing Unit and commented that it might decrease our timeline if we could do the same in the Enforcement Unit.

Dr. Thorp commented that, in response to Dr. Tirado's question, it is important to recognize that over a fourth of cases over two years old are probation monitoring.

Mr. Prasifka agreed, saying that probation should be looked at separately and to change the enforcement coding would require redevelopment of the system from ISB. Mr. Prasifka commented that the goal is not to reduce probation but to monitor to see if it's effective.

Dr. Mahmood commented that there are two different categories being spoken about: people who are already on probation whose cases have been decided, and the wait time from a complaint until the decision is made from the Board. The latter being a lengthy time period.

Mr. Prasifka agreed that the probation monitoring is separate but to make the change in the enforcement codes, ISB would have to rebuild the system.

Dr. Mahmood reiterated that the categories should be separated to avoid confusion.

Ms. Lawson asked for any other questions and comments from the Board members. Hearing none, Ms. Lawson asked for comments from the public.

Ms. Rhee commented that she's happy to hear about the quarterly patient advocate meetings and asked that her non-profit not be marginalized, adding that the Board should notify the public of when the meetings are occurring. Ms. Rhee also commented that the AGO is not representing the Board appropriately and suggested settlement conferences to re-establish patient-doctor relationships. Ms. Rhee thanked Ms. Campoverdi for requesting the demographics of medical experts and commented that our current Board members' and medical experts' resumes read like white power.

Mr. Andrist commented that the Board should not blame the coding system and that ambiguous numbers should not be included. Mr. Andrist thanked Dr. GnanaDev for asking about interviewing complainants and commented that complainants do not always provide all of their information when submitting a complaint, yet, that is what the Board uses to decide if a case moves on. Mr. Andrist shared that the California Contractors State License Board lists on their website a timeline of everything happening with a complaint. Mr. Andrist also shared that

he's excited about the quarterly patient advocate meetings and asked if the Board is going to talk to advocates to set up and plan the meetings. Mr. Andrist commented on how costly it will be to attend full Board meetings along with advocate meetings. Mr. Andrist also commented on clearing out old complaints, wondering if they will be thrown away, and spoke of the budget in relation to investigating complaints. Lastly, Mr. Andrist requested a report to show how and why complaints are closed.

Ms. Hollingsworth thanked Mr. Prasifka for the goal of having quarterly patient advocate meetings, saying she hopes it improves communication between the Board and advocates. Ms. Hollingsworth suggested forming an advisory committee, with members of the public serving on the committee, to deal with disciplinary guidelines, how to effectively submit complaints, and doctor transparency issues.

Agenda Item 7 Update on the Sunset Review Process

Mr. Prasifka reported that the Board submitted the Sunset Review Report to the legislature on January 4, 2021, and it was posted to the Board's website the following week. Mr. Prasifka thanked staff and the Board president and vice president for their contributions. Mr. Prasifka commented that the Board is now waiting on the legislature for the Sunset Review hearing date. Mr. Prasifka continued, saying prior to the hearing, the Board will receive documents identifying topics of interest to the legislature, giving the Board time to prepare for the hearing. Mr. Prasifka commented that Board staff has had discussions with hearing committee staff and will continue to do so throughout the process. Mr. Prasifka shared his hope that there will be a bill introduced to extend the Board's sunset date and include other statutory changes that support the Board's consumer protection mission. Mr. Prasifka expressed the importance of this opportunity to put the Board on sound financial footing.

Mr. Watkins asked what Mr. Prasifka thought the central theme was from yesterday's confirmation hearing about Sunset Review.

Mr. Prasifka replied that there were concerns with the relationship the Board has with complainants as well as the Board's disciplinary rate as compared to other regulatory bodies. Mr. Prasifka commented that there was also some concern about balance between physician expertise and public protection.

Ms. Lawson asked for any other questions and comments from the Board members. Hearing none, Ms. Lawson asked for comments from the public.

Mr. Andrist commented that the public watches and listens to how doctors protect doctors and that the Board's emphasis is on its physician members rather than consumer protection. Mr. Andrist commented that the Sunset Review Report does not include any negative issues the Board faces, which is not being honest with the legislature.

Ms. Reyes expressed her appreciation for the opportunity that the Sunset Review brings to make recommendations for improvements to the PTL program, including physician residents and moonlighting.

Ms. Diaz expressed her appreciation for the opportunity for continued discussions with the Board about unintended consequences created by the PTL program. Ms. Diaz encouraged the Board to work with the legislature and stakeholders to create a solution.

Agenda Item 8 Update from the State's Response to COVID-19

Mr. Prasifka began the update by saying the Board plays a significant role in the state's response to the pandemic. Mr. Prasifka reported that, since the last Board meeting, nine Board staff have tested positive for COVID-19. Mr. Prasifka continued, saying the Board takes the safety of its employees seriously and meets the guidelines of the Governor's Resilience Roadmap, the Centers for Disease Control and Prevention (CDC), the CDPH, and DCA's COVID-19 Prevention Plan to slow or prevent the spread of COVID-19 within the workplace. Mr. Prasifka stated that the Board reports all positive test results and that the incidents were all isolated with no secondary transmission within the workplace.

Mr. Prasifka summarized the communications that the Board has issued to licensees, including vaccine guidelines and temporary waiver extensions. Mr. Prasifka reported that, as of the end of January, the Board has received 891 complaints about COVID-19

Ms. Lawson asked for comments from the Board members. Hearing none, Ms. Lawson asked for comments from the public. There were none.

Agenda Item 9 Discussion and Possible Action on Amendments to Existing Law Under Business and Professions Code (BPC) to Foster Efficiency with Licensure Application and Renewal Processes

Mr. Varghese began with an update on ongoing process improvements and cost reduction activities that Board staff have put into practice, including the AGO accessing material through an online portal rather than burning and mailing DVD's and eliminate printing and mailing the winter edition of the Board's newsletter. Mr. Varghese also reported that the Board is nearing completion of creating electronic wallet cards rather than printing and mailing plastic wallet cards.

Mr. Varghese continued, saying that most of the lagging indicators are based on existing processes, laws, or policies that should be looked at. Mr. Varghese referred to the Board goals adopted in the 2018-2021 strategic plan, specifically goals 1.1 and 1.3 to automate and improve efficiency in licensing processes. Mr. Varghese also referred to BPC sections 163.5 and 2424 in explaining that paper renewal notices are mailed to licensees who have not completed their renewal 120 days prior to the expiration date and that notification is mailed to licensees who have not renewed 60 days prior to the expiration date.

Mr. Varghese explained that the majority of the Board's licensees renew online and Board staff are hoping to eliminate or modify the required paper mailings to achieve the strategic goals previously noted, and that this request would allow Board staff to work with the legislature and stakeholders to explore statutory changes to reduce the use of paper during licensing processes.

Dr. GnanaDev moved to approve Board staff's request for agenda item 9/S: Mr. Watkins

Dr. GnanaDev commented that he thinks this is a great idea to save paper and improve processing times.

Dr. Thorp commented that this is a great idea and it would help to streamline processes.

Ms. Lawson asked for comments from the public.

Mr. Andrist commented that having electronic documents would make it easier for the Board to provide Public Records Act (PRA) requests. Mr. Andrist also commented on the cost to obtain PRA requested documents.

Ms. Lawson asked Ms. Caldwell to take the roll.

Motion carried 12-0

Agenda Item 10 Update from the Attorney General's Office

Ms. Castro began by congratulating Ms. Lawson on her new position as Board president. Ms. Castro notified the Board that the Attorney General's Annual Report on Accusations Prosecuted for fiscal year 2019/2020 has been published. Ms. Castro reported that the AGO received 550 accusation matters for legal review in fiscal year 2019/2020, 412 matters were filed by the Board, and 337 matters received in prior fiscal years were adjudicated. Ms. Castro also reported that the AGO had a successful outcome in defending the Board in a third-party subpoena action that also involved two other DCA clients. Ms. Castro mentioned that the outcome will limit non-party subpoenas served against state entities. Lastly, Ms. Castro reported that the Office of Administrative Hearings (OAH) will hold virtual hearings through August 2021.

Ms. Castro gave a staffing update, commenting on a retirement and two new members joining their legal staff. Ms. Castro welcomed questions regarding the Board's budget and enforcement timeframes that were previously discussed.

Ms. Lawson requested Ms. Castro address the previous comments up front before going to Board members for additional questions.

Ms. Castro referred to the enforcement chart Average Days to File Administrative Charges Prepared by the AGO, saying that it includes processing time of the Board and it goes from the time charges are filed to when they are received. Ms. Castro commented that there was a significant change in how this was tracked from the 2020 report and that this report has never listed the amount of different kinds of work coming in. Ms. Castro also commented that the chart does not show the number of cases sent for processing nor does it reflect pending matters or outcomes.

Ms. Castro clarified that there was not a raise in salaries but rather a raise to the legal hourly fees. Ms. Castro continued, saying the AGO's budget was reduced from eliminating the vertical

enforcement program, which is reflected in the increased timeframes. Ms. Castro commented that the AGO has recreated some efficiencies to improve processing times and spoke of referred and declined cases since fiscal year 2017/2018.

Dr. Thorp shared his concern that the amount of money already spent for attorney services in six months is over half of the budget, and commented that it is hard to understand how the Board is going to finish the fiscal year without being in a deficit. Dr. Thorp also commented on the average days to file a complaint increasing.

Ms. Castro commented that the AGO sent a prognostication to the Board that the budget could be exceeded and that it is up to the Board to request a budget increase. Ms. Castro also commented that the current numbers are not as bad as she thought they would be without vertical enforcement.

Dr. Krauss commented that when the Board panels ask for a case to be sent back to change a stipulation, it may not be the most productive use of time or money, and that it may be helpful if Ms. Castro could let the Board know the most productive ways to spend its time and money with the AGO.

Ms. Castro replied that she would be happy to meet and discuss these issues.

Dr. Krauss commented on the time it takes to get the best possible outcome for public protection and the cost of doing so and recognizing the limitations on time and money.

Ms. Castro commented that moving to virtual hearings may add to cost savings.

Mr. Watkins recalled asking Ms. Castro during a previous meeting about not always following the disciplinary guidelines and being told that the guidelines are not accurate. Mr. Watkins continued, saying since asking that question, almost all of the memos he's reviewed do not follow the guidelines, unless it was a very serious matter. Mr. Watkins commented that this is not adequately protecting the public. Mr. Watkins also commented that he is troubled by the biased tone of the memos, as well as facts being hidden in the memos. Mr. Watkins continued, saying the Board trusts the AGO to give advice, yet the Board hears from complainants and patient advocates about feeling unrepresented. Mr. Watkins commented that he is looking for a way to create a partnership with the AGO to address these issues.

Ms. Castro replied that the guidelines should be applicable to a case by the accusation that was filed and the AGO will advise the Board of the positives and negatives of a case.

Mr. Watkins commented that when he gets a memo, it should be balanced to allow him to make a decision from the facts, however, when the memos are biased, he is being directed in a certain way. Mr. Watkins invited Ms. Castro to show him how they do not deviate from the guidelines, because he finds it happens 80% of the time. Mr. Watkins commented that, because deviating from the guidelines has become practice, the integrity of the Board is in question.

Ms. Lawson commented that this is a broader conversation and recommended Board members work with Board staff to come up with a plan and process to address these concerns.

Dr. Hawkins commented that the guidelines are an acknowledgment that the cases are not always black and white. Dr. Hawkins also commented that he has never read a memo and thought it to be directing his decision.

Ms. Castro commented that panel members may hold decisions and ask questions of the deputy attorney general (DAG). Ms. Castro stated that cases are not black and white, and that the standard of care and guidelines are the systems in place since there is no way to pass laws on everything they encounter with cases. Ms. Castro also commented that the bias tone and hidden facts in memos are serious allegations and that she reads each memo issued.

Dr. Lewis echoed Dr. Hawkins that cases are not black and white and commented that the guidelines do not always have to have the maximum applied.

Ms. Lawson requested to set up a time to talk about these important issues so that the Board meeting may move on.

Mr. Watkins stated that he is fine with deviating from the guidelines, but not 80-90% of the time, saying that amount becomes a practice. Mr. Watkins agreed that a meeting to discuss this would be productive.

Dr. GnanaDev commented that it was not the Board's intent to completely eliminate vertical enforcement and that the money saved was lost in the hourly cost increase.

Ms. Castro commented that Ms. Jones has identified about 100 cases for early intervention that the AGO is assisting with.

Ms. Lawson asked for comments from the public.

Mr. Andrist commented that Mr. Watkins is a godsend to patient advocates and that he should be careful so as not to end up off of the Board. Mr. Andrist read an excerpt from the Board's Manual of Model Disciplinary Orders and Disciplinary Guidelines.

Ms. Rhee agreed with Mr. Watkins' comments and stated that he should be careful so he does not end up off of the Board. Ms. Rhee commented on how bias and deviating from the guidelines can be seen in her own case. Ms. Rhee also commented that the AGO is corrupt and being misused to target underrepresented minority physicians.

Ms. Hollingsworth commented that Mr. Watkins voiced what patient advocates have long known and gave examples of cases. Ms. Hollingsworth urged the Board to address these issues to protect Californians.

Agenda Item 11 Update from the Health Quality Investigation Unit

Ms. Nicholls began the update by letting the Board know Mr. Chriss retired, and he wanted Ms. Nicholls to relay how much he enjoyed working with the Board. Ms. Nicholls commented that the HQIU is recruiting to fill the position. Ms. Nicholls reported a 6% investigator vacancy rate. Ms. Nicholls gave an update on the Expert Procurement Unit (EPU), which was implemented in October 2020. Ms. Nicholls reported that the EPU has accepted 105 investigations to send to expert, noting that the progress they are seeing will reduce overall timelines and help reduce the pending workload for investigators.

Ms. Nicholls stated that the HQIU anticipates receiving the referrals from the Prescription Review Program within the next few months. In preparation for the additional workload, Ms. Nicholls commented that HQIU has looked at potential efficiencies, including the CCU analyst documenting their concerns for use of a good cause determination.

Ms. Nicholls gave an update on remote working, saying HQIU was in a good position prior to the pandemic and has since expanded its cloud-based sharing system. Ms. Nicholls also reported some delays due to the pandemic, noting the availability of witnesses and experts are limited.

Ms. Nicholls reported that HQIU received POST approval for impairment investigation training and investigators will receive the training in March 2021. Ms. Nicholls commented that HQIU continue to meet monthly with Board staff.

Ms. Nicholls addressed the earlier concern of cases taking up to two years to complete. Ms. Nicholls explained that there is a wide range of reasons this could happen, including subpoena difficulty and issues obtaining records, cases being reopened after a conviction, difficulty locating witnesses and uncooperative subjects. Ms. Nicholls noted that HQIU had a previous large vacancy rate, but has since managed the vacancies and are working on the pending workload. Ms. Nicholls commented that EPU being able to utilize CCU analysts has helped, and HQIU continues to work to find solutions.

Mr. Watkins thanked Ms. Nicholls and commented about seeing her in a leadership role.

Dr. Hawkins echoed Mr. Watkins and commented that her explanation was helpful in better understanding the process.

Dr. GnanaDev commented on being questioned by the Senate Rules Committee about timelines. Dr. GnanaDev stated that it is good to know the reasons but they need to come up with solutions to reduce the timelines.

Ms. Nicholls agreed that HQIU and the Board need to keep exploring solutions. Ms. Nicholls commented on anonymous complaints taking up a lot of investigative resources. Ms. Nicholls stated that HQIU needs support from the Board in legislative efforts to obtain records faster.

Dr. GnanaDev agreed with Ms. Nicholls and mentioned that many of the solutions are included in the Board's Sunset Review Report.

Dr. Mahmood commented that the issues Ms. Nicholls spoke of are known to the Board and action should be taken quickly to work on them.

Ms. Lubiano asked about the time and resources spent on anonymous complaints and how that can be addressed.

Ms. Nicholls suggested coming up with a matrix to prioritize the complaints and triage them.

Ms. Lawson asked for comments from the public.

Mr. Andrist commented that Ms. Nicholls is informative and easy to understand, saying she deserves a promotion. Mr. Andrist also commented on how nice Ms. Nicholls has been to him at past Board meetings.

Ms. Rhee commented on how no one has been nice to her at past Board meetings. Ms. Rhee commented that it sounds like Ms. Nicholls and Ms. Castro are whining about the workload and budget. Ms. Rhee also commented that the reason cases take two years to complete is because the AGO cannot find a medical expert to speak in the way they want them to.

Ms. Hollingsworth thanked Ms. Nicholls for her work and transparency. Ms. Hollingsworth asked about doctors not showing up for interviews and referred to SB 425. Ms. Hollingsworth commented that she hopes Ms. Nicholls can move up to lead the HQUI.

Ms. Nicholls replied, saying doctors can still come up with what they think is a good reason to delay the interview, and that the reasons are not defined in the law.

Agenda Item 13 Discussion and Possible Action on Legislation/Regulations

Mr. Bone introduced SB 48, Limón, which would require all general internists and family physicians to complete at least four hours of continuing medical education (CME) during each two-year renewal cycle. Mr. Bone noted that this bill is sponsored by the Alzheimer's Association. Mr. Bone stated that current statute requires physicians, for whom more than 25% of their practice includes patients 65 years of age or older, to complete 20% of the CME in the fields of geriatric medicine or the care of older patients. Mr. Bone continued, saying the author and sponsor believe the current requirements are insufficient to prepare physicians for the expected needs of those at risk for dementia.

Mr. Bone commented that the Board generally does not support legislation that mandates CME on certain topics, and in 2014 adopted a policy that physicians should decide the CME most appropriate for their practice. Mr. Bone stated that the analysis provides an oppose unless amended recommendation and includes two possible options for the Board to consider. Mr. Bone reviewed the two options, saying the first option would encourage physicians to take CME in this area by adding the special care needs of patients with dementia, and the second option would be to keep the four hour requirement proposed in the bill but limit it to the same cohort of physicians who see patients older than 65 years.

Dr. Krauss commented that the legislature is not the appropriate place to mandate physician education and gave the example of what happened when legislature mandated CME for the treatment of pain. Dr. Krauss continued, saying his guess is that pharmaceutical companies

engaged in marketing drugs for dementia and Alzheimer's would recruit experts for these courses in order to advertise their medications. Dr. Krauss commented that there is a lot of potential harm in legislating CME, and that physicians can be depended on to use their required CME hours to best educate themselves and protect their patients.

Dr. GnanaDev agreed with Dr. Krauss, saying it is a dangerous path to take to mandate CME. Dr. GnanaDev commented that he recommends opposing this bill.

Dr. Thorp commented that physicians do take care of an elderly population and address these issues not because of legislation, but because of the need to provide this care for patients. Dr. Thorp commented that he opposes this bill.

Ms. Lubiano commented that she understands the idea behind the bill and that it makes sense for those doctors who are treating patients with dementia and Alzheimer's. Ms. Lubiano commented that she respects the process of legislature demanding change because sometimes things are not happening as fast as they should. Ms. Lubiano commented that she does not completely oppose the bill and could see value in adding the amendments.

Dr. Lewis commented on dementia and Alzheimer's patients living in skilled facilities and that the doctors there are well-versed in their care. Dr. Lewis agreed with his physician colleagues that CME does not need to be mandated.

Dr. Mahmood disagreed with Dr. Lewis, saying many of these patients live in the community, not just in assisted living homes, and believes there should be extra training, just not in the form of mandated legislation.

Dr. Hawkins commented that he agrees with the importance of CME on this topic and would not outright oppose this bill but that it does need to be massaged.

Dr. Lewis commented that he spoke from personal experience in saying a majority of this population lives in care facilities but has now heard that many live out in the community. Dr. Lewis commented that he opposes legislators dictating his education.

Ms. Campoverdi asked about the amendment option to satisfy CME hours and whether physicians are currently able to take those courses.

Dr. Thorp replied that physicians could take courses in dementia or geriatric care and it would go toward the CME hourly requirement.

Ms. Campoverdi recommended opposing the bill.

Dr. GnanaDev commented that physicians should feel obligated to take CME courses in their respective field, but that it does not need to be legislated.

Ms. Lawson asked for clarification on the first option for amendment, referring to the 10 hours of CME.

Mr. Bone explained that current law requires physicians who have a patient population of which at least 25% are 65 years of age or older shall complete at least 20% of CME hours in the fields of geriatric medicine or the care of older patients. Mr. Bone continued, saying proponents argue that does not necessarily mean dementia care, and they also argue that physicians should have this training regardless of their patient population. Mr. Bone explained that the first option would take a more encouraged approach to allow for modifications to the ten hour requirement.

Ms. Lawson commented that if the ambiguity is eliminated in the first option, she could support that.

Dr. Krauss commented he would like this bill to be amended so that no sponsor, purveyor, or lecturer provide the CME course or derive any income or research support from pharmaceutical companies that are producing drugs for these conditions or from a corporation that is providing Alzheimer's and dementia care. Dr. Krauss referred to the mandated pain management CME and the outcome of unnecessary prescribing with the opioid crisis.

Ms. Lawson asked for comments from the public.

Mr. Torres commented that it would be a bad political move to oppose this bill. Mr. Torres continued, saying the Board should not take a position and to express the concerns discussed to the legislature.

Ms. Lawson requested to have a discussion if Board members are willing to have an amendment rather than an oppose position.

Dr. GnanaDev commented that he would be willing to accept an amendment.

Dr. Thorp commented that he is willing to make a motion of oppose unless amended or even a neutral position. Dr. Thorp commented that he is concerned that having a neutral position may be perceived as being in favor of this bill.

Ms. Lawson commented that the Board typically opposes legislation requiring CME and asked Mr. Bone about taking a neutral position versus and oppose unless amended position.

Mr. Bone commented that the Board does not have to take a position at this time. Mr. Bone also commented that the bill's analysis provides some examples of positions the Board has previously taken related to CME legislation. Mr. Bone continued, saying the Board's concerns could be drafted into a letter to the author indicating that the bill will be further discussed at the next Board meeting.

Dr. Thorp commented that he likes the idea of composing a letter.

Dr. Krauss commented that the disadvantage of taking an opposed position is that it removes the Board from the opportunity to help alter the bill, and that an oppose unless amended position gives the Board room to discuss what needs to be done. Dr. Krauss commented that the Board does not take positions as bills evolve, but rather the Board takes positions at the quarterly Board meetings. Dr. Krauss continued, saying that taking an oppose unless amended

position would be helpful and the Board will need to provide guidance in crafting a letter in terms of what the concerns are.

Mr. Bone commented that the Board's position is dictated by the tone the Board sets in its approach, and that a letter expressing the concerns the Board wants the legislator to consider would get the job done. Mr. Bone stated he could engage in further conversations with the author and sponsor and report back at the next Board meeting.

Ms. Lawson recommended that she and Dr. Krauss work with Mr. Bone to prepare a letter that reflect the conversation during this meeting and that no position is taken at this time.

Dr. Hawkins requested to be involved in drafting the letter.

Dr. Thorp withdrew his motion.

Dr. Lewis withdrew his motion.

Ms. Lawson made a motion to take no position on SB 48, Limón, and to direct staff to prepare a letter with the assistance of Ms. Lawson, Dr. Krauss, and Dr. Hawkins/S: Dr. Lewis

Ms. Lawson asked Ms. Caldwell to take the roll.

Motion carried 12-0 (No Position)

Mr. Bone introduced SB 57, Wiener, which authorizes local governments to temporarily establish overdose prevention programs within their jurisdiction. Mr. Bone explained that these programs would provide a location where individuals may consume controlled substances under the supervision of staff who would intervene if the individual overdoses. Mr. Bone continued, saying the participants will be offered sterile consumption equipment, general medical advice, housing options, and other social services.

Mr. Bone commented that the bill's language provides criminal, civil, administrative, and professional disciplinary protection for the employees, volunteers, and others involved in the operation of the facilities. Mr. Bone noted that this would prevent the Board from taking enforcement action on its licensees who fail to adhere to the standard of care at these locations. Mr. Bone commented that he discussed with the author and sponsors the difficulties this would pose to the Board's mission, and that they indicated their goal is not to protect the bad doctors but to support the good doctors who may be reluctant to serve in these facilities.

Mr. Bone commented that Board staff recommends an oppose unless amended position, contingent upon the bill being amended so that the Board maintains its existing authority to take appropriate enforcement action against its licensees.

Dr. GnanaDev commented that this is being done in some parts of Europe, so the Board can get an idea of what is being done instead of creating everything anew. Dr. GnanaDev also commented that this is compassionate care and may help people. Dr. GnanaDev commented

that, as long as there is a standard, he is okay with it, but he would like to know what the standard of care and practices are in other areas that are already doing this.

Mr. Bone commented that the bill's author and sponsors are listening in and they may be able to address this question during public comments.

Dr. Krauss commented that the parallel question is whether California would be leading the nation, or if there are other states that may already be doing this that we can learn from.

Dr. Lewis asked who the sponsors of the bill are and who the author is.

Mr. Bone replied with California Association of Alcohol and Drug Program Executives, California Society of Addiction Medicine, Drug Policy Alliance, National Harm Reduction Coalition, Healthright 360, San Francisco AIDS Foundation, and the Tarzana Treatment Center. Mr. Bone commented that Senator Wiener is the author.

Ms. Lawson commented that she would oppose this bill unless an amendment is made to the part that would prevent the Board from taking disciplinary or enforcement action against a physician who deviates from the standard of care. Ms. Lawson continued, saying the components of this bill are laudable and should be supported, but not to the extent that it would immunize physicians from discipline or enforcement if there is deviation from the standard of care.

Mr. Bone agreed with Ms. Lawson, saying if it weren't for that disciplinary language, this bill would not have been added to the agenda.

Dr. GnanaDev commented that these concerns are why he wants to know what is being done in other locations.

Ms. Lubiano commented that the analysis states that physicians are unlikely to provide care at a facility but she agrees with the stated concerns.

Dr. Thorp commented that it will not be easy to decide what the standard of care is since this is not something commonly done and asked if it were possible to determine what the standard of care is.

Dr. Mahmood commented that this is being done in Australia and Scandinavia, and they have a good track record. Dr. Mahmood continued, saying other cities in the country are looking into offering the same kind of program. Dr. Mahmood stated that limiting the Board to take any regulatory actions would be a strong hindrance, giving the potential for abuse and negligence in all program locations.

Ms. Campoverdi commented that she would like to hear from the bill's representatives during the public comments about the standard of care.

Ms. Lawson asked for comments from the public.

Legislative Aide Severiano Christian commented on the California overdose crisis and cited studies showing overdose rates doubled in 2020 as compared to 2019. Severiano Christian commented that overdose prevention programs are a necessary intervention to prevent overdose deaths. Severiano Christian continued, saying that these programs have been researched, as they can be found in several countries, have shown to get people into treatment, and have no documented overdose deaths at any of the facilities. Severiano Christian stated that, within the legislation, there must be an established relationship with the nearest emergency department of a hospital. Severiano Christian commented that Senator Wiener and the sponsors of this bill understand the concerns of the Board and welcome the opportunity to address the concerns before the Board takes an official position to oppose the bill unless amended.

Dr. Kan commented that people with substance abuse disorders take time to change and the state needs to match the availability of treatment services with the demand. Dr. Kan pointed out that, in San Francisco, more people have died from drug overdoses than from COVID-19. Dr. Kan spoke from experience in saying that addiction patients are treated poorly by the traditional medical system and that patients in overdose prevention programs are treated with respect. Dr. Kan commented that mostly nurses and other healthcare professionals would be involved in the program, rather than physicians, but a physician would be needed as a medical director. Dr. Kan encouraged the Board to not take a position at this time and to work with the sponsors to amend the legislation to address the concerns raised.

Ms. Thomas commented that the San Francisco AIDS foundation would like to add this bill's services to their existing continuum of care, saying they share the Board's goal of ensuring the highest quality of care. Ms. Thomas commented that she is willing to work with the Board to identify appropriate language to meet the needs of all parties. Ms. Thomas also commented that it is not their intent to shield bad doctors but to protect the physicians providing care and acting as medical directors at these facilities. Ms. Thomas noted that Canada is another country that offers this type of program and she would be happy to find the appropriate contacts to provide insight on their standard of care.

Mr. Backes commented that this program is needed and should be piloted pursuant to local authorization, as well as evaluated on their effects of mortality, public nuisance, and crime. Mr. Backes commented that it is not their intent to protect bad doctors and would like to work with the Board to address these concerns. Mr. Backes requested the Board not take an oppose unless amended position, as it may give the false impression that there are significant concerns from the Board or the medical community about the policy. Mr. Backes asked the Board to work with the author and sponsors to address the concerns. Mr. Backes reviewed the timeframe for passing this legislation, noting there is plenty of time to address any issues.

Ms. Lawson suggested the Board further consider discussing this item.

Dr. Thorp made a motion to take no position on SB 57, Wiener/S: Dr. Lewis

Ms. Lawson recommended the Board work with the various sponsors to address the discussed concerns.

Ms. Lawson asked Ms. Caldwell to take the roll.

Motion carried 11-0 (No Position; Dr. Yip absent)

Mr. Bone reviewed the status of pending regulations, noting that the Rehabilitation and Substantial Relationship Criteria rulemaking package was completed and filed at the Secretary of State's office on January 21, 2021, which was also the effective date of that regulation.

Dr. Thorp asked about the status of the Physician and Surgeon Health and Wellness program.

Ms. Webb replied that the financial impact in budgetary requirements is being updated and that it is a very detailed process, which is why it has taken some time, and that everything else is ready to go to DCA.

Dr. GnanaDev asked about the update to the Uniform Standards.

Ms. Webb replied that the Uniform Standards have not been updated officially by DCA, although there was a change that was accepted. Ms. Webb continued, saying Board staff took the regulatory package back to change the wording so that we would not have to change multiple regulations anytime there was a change in the Uniform Standards.

Ms. Lawson asked for comments from the public, and there were none.

Agenda Item 12 Update from the Department of Consumer Affairs

Ms. Holmes congratulated the Board on its newest public member appointed by Governor Newsom, Ryan Brooks. Ms. Holmes gave an update on COVID-19 and teleworking, saying DCA's boards and bureaus are maximizing telework to help reduce transmission and are ensuring employee and public health measures are being taken.

Ms. Holmes commented that Board and Bureau Relations has partnered with SOLID training to develop a new board member orientation training (BMOT). Ms. Holmes noted that the first BMOT training will be held via WebEx on March 11, 2021. Ms. Holmes reminded Board members that newly appointed and reappointed members are required to take the training within a year of appointment. Ms. Holmes also reminded Board members and staff that 2021 is a mandatory sexual harassment prevention training year. Finally, Ms. Holmes reminded Board members that Form 700 filings are due by April 1, 2021.

Ms. Holmes announced Governor Newsom's February 2, 2021 appointment of Sara Murillo as Deputy Director of Administrative Services at DCA. Lastly, Ms. Homes announced two new initiatives for 2021 to enhance DCA services to all boards and bureaus, an executive officer cabinet that will assist with special projects, and the Enlightened Licensing project that will help streamline licensing processes.

Ms. Lawson asked for comments from Board members. Hearing none, Ms. Lawson asked for comments from the public.

Mr. Andrist reminded the Board that DCA subpoenaed his personal Facebook records, including private conversations that included victims of medical errors, and warned other patient advocates that DCA can subpoena them.

Dr. Lewis asked Ms. Holmes to relay to DCA that training modules should be compatible with both Mac and personal computers.

Agenda Item 14 Update on Mexico Pilot Program

Mr. Prasifka began the update by saying significant progress has been made in the implementation of the Mexico Pilot Program. Mr. Prasifka reviewed the program's timeline, noting that the final externship was put into place on November 23, 2020, U.C. Davis approved the evaluation on January 25, 2021, and the Board is currently in the final stages of working out the budget. Mr. Prasifka stated that the Board will be in the position to issue licenses very shortly.

Mr. Prasifka commented that there are 25 applications, 12 have been completed and 13 are expected to be completed soon. Mr. Prasifka explained that the licenses are valid for three years and that the licensees will need to obtain visas.

Ms. Lawson asked for comments from Board members. Hearing none, Ms. Lawson asked for comments from the public.

Mr. Ross commented on behalf of bilingual foreign and international medical graduates who practice and contribute to primary care medicine within the state of California. Mr. Ross commented that they are familiar with admitting patients and working with doctors because they are already working in the United States. Mr. Ross noted that, since they are licensed, it is easy to know their prescribing patterns and of any enforcement issues. Mr. Ross continued, saying he is speaking on behalf of this group because they are afraid the Board is pushing ahead with this program without recognizing United States medical graduates who have already completed the required education, testing, and experience.

Mr. Torres thanked Ms. Lawson for their many discussions on this program. Mr. Torres commented that this program was approved three years ago and that it has taken the Board this long to get to the current phase. Mr. Torres commented Senator Caballero sent a letter to the Board raising concerns with Board staff in implementing this program. Mr. Torres requested a working group be formed to examine how Board staff worked on this program and implemented it. Mr. Torres also commented that this program is not intended to take away from current physicians in the United States.

Ms. Lawson thanked Mr. Torres for his suggestion on a working group, saying it is something the Board will consider. Ms. Lawson asked Mr. Prasifka about the timeline for licenses that are ready but may now be on hold for visa requirements.

Mr. Prasifka commented that that group of licensees would like to apply for their visas as a group. Mr. Prasifka also commented that there are 12 completed applications, while 13 applications should be completed within a couple of weeks, after which, the licensees will

begin the process of applying for visas. Mr. Prasifka noted that the process for those 13 applications should be completed in six weeks.

Ms. Lawson commented that the same coordinating group with agency, DCA, and Board staff will continue to work on these issues collaboratively as the Board gets closer to issuing those licenses.

Ms. Lawson adjourned the meeting at 6:53 P.M.

Friday, February 5, 2021

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

Members Present:

Kristina D. Lawson, J.D, President
Alejandra Campoverdi
Dev GnanaDev, M.D.
Randy W. Hawkins, M.D., Secretary
Howard R. Krauss, M.D., Vice President
Ronald H. Lewis, M.D.,
Laurie Rose Lubiano, J.D.
Asif Mahmood, M.D.
Richard E. Thorp, M.D.
Cinthia Tirado, M.D.
Eserick "TJ" Watkins
Felix C. Yip, M.D.

Staff Present:

Aaron Bone, Chief of Legislation and Public Affairs
Valerie Caldwell, Associate Governmental Program Analyst
Charlotte Clark, Information Technology Supervisor I
Sean Eichelkraut, Information Technology Manager I
Jenna Jones, Chief of Enforcement
Jacoby Jorgensen, Staff Services Manager, I
Nicole Kraemer, Information Technology Specialist I
Natalie Lowe, Information Technology Specialist I
Marina O'Connor, Chief of Licensing
William Prasifka, Executive Director
Regina Rao, Associate Governmental Program Analyst
Elizabeth Rojas, Staff Services Analyst
Emmalee Ross, Information Officer I
Alexandria Schembra, Associate Governmental Program Analyst
Reji Varghese, Deputy Director
Carlos Villatoro, Public Information Officer II
Kerrie Webb, Staff Counsel

Members of the Audience:

Eric Andrist, The Patient Safety League
Carmen Balber, Consumer Watchdog
Joseph Cachuela, California Medical Association
Gloria Castro, Attorney General's Office
Pedro Catarino, Cedars-Sinai
Yvonne Choong, California Medical Association
Brian Clifford, Department of Consumer Affairs
Mary Kate Cruz Jones, Department of Consumer Affairs
Matthew Davis, Attorney General's Office
Rosanna Davis, California Association of Licensed Midwives
Michael Ding, The Collaborative
Bryce Docherty, TDG Strategies
Tracy Dominguez
Cathy Doughty, Capitol Advocacy
Nicole Escalera
Julianne Fellmeth, University of San Diego
Bob Garcia
John Go
Christina Hildebrand, A Voice for Choice
Monique Himes
Diane Holzer
Marian Hollingsworth, The Patient Safety League
Cynthia Jovanov
Anne Jurach, Office of Statewide Health Planning and Development
Susan Lauren
Evon Lenerd, Department of Consumer Affairs
Henry Lewin
James Lin, Kaiser Permanente
April Manatt, California State Senate
Loretta Melby, California Board of Registered Nursing
Michele Monserratt-Ramos, Consumer Watchdog
Kathleen Nicholls, Health Quality Investigations Unit
Kristen Ogden
Jonathan Padua, University of San Diego
Catrina Reyes, California Academy of Family Physicians
Christine Rhee, Attorney General's Office
Jeff Rizzo
LeAnna Shields, Attorney General's Office
Elissa Silva, California State Senate
Ryan Spencer, RGS Consulting and Advocacy, LLC
Kim Stone, Stone Advocacy
Nancy Trego, Kaiser Permanente

Agenda Item 15 Call to Order/Roll Call/Establishment of a Quorum

Ms. Lawson called the meeting of the Medical Board of California (Board) to order on February 5, 2021, at 9:03 A.M. A quorum was present and due notice was provided to all interested parties.

Agenda Item 16 Public Comments on Items not on the Agenda

Mr. Andrist commented that yesterday's meeting was very informative and provided him with more evidence to present to the legislature for the Sunset Review. Mr. Andrist commented on how past Board member Judge Feinstein criticized Ms. Castro and then, not long after, submitted her resignation to the Board. Mr. Andrist also commented that the Board continues to accept subpar standards, not follow its own guidelines, and barter with bad doctors.

Ms. Hollingsworth commented on the issue raised during yesterday's meeting regarding the Board not following its disciplinary guidelines, giving examples of recent cases. Ms. Hollingsworth requested the Board address this issue at the next Board meeting.

Ms. Lauren commented that she's a survivor of surgical assault and continues to be secondarily harmed by widespread institutional betrayal that targets survivors with false blame. Ms. Lauren commented that filing a complaint with the Board is demoralizing and fruitless. Ms. Lauren spoke of her surgical assault and experience she had with Dr. Saul Berger. Ms. Lauren also spoke of Dr. Terry Dubrow, whom the Board also uses as an expert. Ms. Lauren stated that plastic surgeons should not be experts for one another. Ms. Lauren commented on the obstacles she has faced during and after her case.

Mr. Rizzo continued Mr. Andrist's comments, speaking of the state auditor's comments about state agencies being entrenched in their traditional processes. Mr. Rizzo commented that, from what he can tell, the Board has only had an audit on BreZE, which failed. Mr. Rizzo commented on the recent audit of the California Board of Registered Nursing. Mr. Rizzo also commented on not being able to obtain public records. Mr. Rizzo spoke of DCA's subpoena of Mr. Andrist's Facebook account, the Board being sued by an employee, and Kimberly Kirchmeyer's promotion. Mr. Rizzo commented that the Board should request an audit if it wants to be better and know why its systems are failing.

Ms. Hildebrand expressed her disappointment in the Board for not having public input for the Board meetings. Ms. Hildebrand spoke of the standard of care versus the newest treatment and physicians who write medical exemptions for vaccines. Ms. Hildebrand requested a future agenda item to discuss the newest research instead of using the standard of care.

Agenda Item 17 Update, Discussion, and Possible Action on Proposed Agenda from the Midwifery Advisory Council

Ms. Holzer reviewed the Midwifery Advisory Council's (MAC) agenda items for the upcoming MAC meeting and requested approval.

Ms. Lawson asked for comments from the Board members. Hearing none, Ms. Lawson asked for comments from the public. There were none.

Dr. Hawkins moved to approved the proposed agenda/S: Mr. Watkins

Ms. Lawson asked Ms. Caldwell to take the roll.

Motion carried 12-0

Agenda Item 18 Update on Interested Parties Meeting Regarding Proposed Revisions to the Practice Guidelines for California Licensed Midwives

Dr. Krauss gave a summary of the interested parties meeting held on January 14, 2021, and reviewed the background of the Standards of Care for California Licensed Midwives and the Practice Guidelines for California Licensed Midwives. Dr. Krauss noted that at its March 2020 meeting, the MAC reviewed the practice guidelines for possible revision and at its August 2020 meeting, the MAC voted to significantly revise the practice guidelines. Dr. Krauss continued, saying that at the November 2020 Board meeting, the MAC recommended that the Board approve the proposed revisions, but the Board decided to hold an interested parties meeting for further discussion.

Dr. Krauss commented that the majority of the public comments recommended rejecting the modification of the guidelines in favor of focusing on developing an independent midwifery board. Dr. Krauss noted that the Board's Sunset Review Report recommends the creation of a midwifery board.

Dr. Hawkins asked why the modifications were not adopted.

Dr. Krauss replied that the modifications were mostly to remove the guidelines, which was a dramatic change, but that the details are in the minutes of that meeting. Dr. Krauss commented that we are currently in a legislative cycle where the Board may find that it will not have supervision of midwives. Dr. Krauss also commented that most of the commenters at the interested parties meeting felt that a revision of the guidelines could be moot if an independent midwifery board is created.

Ms. Lawson asked for comments from the public. There were none.

Agenda Item 19 Discussion and Possible Action on Recommendations from the Special Faculty Permit and Review Committee

Dr. GnanaDev presented a Special Faculty Permit (SFP) application for Dr. Pedro Catarino from the University of California, Los Angeles (UCLA). Dr. GnanaDev spoke of the applicant's area of expertise, professional history, and qualifications. Dr. GnanaDev stated that, if approved by the Board, Dr. Catarino will hold a full-time faculty position as Health Sciences Associate Clinical Professor at David Geffen School of Medicine at UCLA and will serve as Surgical Director of Aortic Surgery at Cedars-Sinai Medical Center. Dr. GnanaDev noted that the Special Faculty Permit Review Committee (SFPRC) recommends approval of Dr. Catarino for an SFP. Dr. GnanaDev asked if there were any questions from the Board. There were none.

Dr. Lewis moved to approve the recommendation/S: Dr. Krauss

Ms. Lawson asked for public comments. Hearing none, Ms. Lawson asked Ms. Caldwell to take the roll.

Motion carried 12-0

Agenda Item 20 Discussion and Possible Action on the Recommendations from the Application Review and Special Programs Committee

Ms. Lawson gave a summary of the Application Review and Special Programs Committee (ARSPC) meeting held on January 20, 2021, and reviewed the recommendation to delegate authority to Board staff to grant extensions to PTL's. Ms. Lawson explained that PTL's are valid for 90 days after completion of 36 months of approved postgraduate training if the PTL holder is enrolled in an approved postgraduate training program. Ms. Lawson continued, saying this allows a PTL holder to complete 39 months of approved training before acquiring a Physician's and Surgeon's license.

Ms. Lawson commented that, in order to successfully complete 36 months of required approved postgraduate training to be licensed in California, this must include completing 24 months in the same program. Ms. Lawson also commented that Board staff continue to receive license applications from current residents that will not have completed 24 months in the same program upon completion of 39 months of training due to circumstances outside their control, such as program closure.

Ms. Lawson commented that the ARSPC recommends approval to delegate Board staff the authority to grant extensions to PTL's beyond 39 months, pursuant to California BPC section 2065(g).

Dr. Thorp asked if there is a process for tracking the pattern of PTL extensions.

Ms. Webb replied that it would be appropriate to include that information in a licensing report.

Dr. GnanaDev commented that this issue puts a lot of stress on young students already struggling to obtain the PTL and that he supports this recommendation.

Dr. GnanaDev moved to approve the recommendation/S: Dr. Thorp

Ms. Lawson asked for public comments. Hearing none, Ms. Lawson asked Ms. Caldwell to take the roll.

Motion carried 12-0

Agenda Item 21 Update on the Health Professions Education Foundation

Dr. Hawkins explained what the Health Professions Education Foundation (HPEF) is and what they do. Dr. Hawkins shared that he and Dr. GnanaDev sit on the HPEF Board of Trustees and that HPEF is located within the Office of Statewide Health Planning and Development (OSHDP). Dr. Hawkins reviewed HPEF's Board of Trustees meeting held on January 13, 2021, where a new executive director and two new trustees were introduced. Dr. Hawkins reviewed the HPEF Advisory Committee and encouraged interested persons to apply as a committee member.

Dr. Hawkins shared HPEF's website and social media sites. Dr. Hawkins explained the Steven M. Thomson Physician Corps Loan Repayment Program (STLRP) and reviewed the application cycle and funding. Dr. Hawkins noted that the next HPEF meeting is March 24, 2021.

Dr. GnanaDev thanked Dr. Hawkins for presenting the update. Dr. GnanaDev suggested Board staff send emails to all PTL residents to let them know of the STLRP.

Dr. Thorp asked how much funding is available for the loan repayment programs on an annual basis and how much goes undistributed.

Dr. GnanaDev replied that nothing goes undistributed but he cannot recall how much there is in funding, noting that the funds come from licensing fees.

Dr. Hawkins commented that the funding amount was presented in a prior update and also noted that funds come from licensing fees. Dr. Hawkins commented that information can be found online at grants.ca.gov, mentioning that competitors to HPEF's program are also listed on the website.

Dr. Mahmood asked what the criteria is for determining who is awarded the loan repayment. Dr. Mahmood also asked if there is a plan for the future to offer this kind of program to people going to nursing or medical school rather than after they've completed school.

Dr. Hawkins replied that all applicants answer the same questions relating to their experience and that the applications are blindly scored. Dr. Hawkins continued, saying the total scores are compared to determine who is offered the award. Dr. Hawkins also commented that HPEF is evaluating how to best reach individuals and suggestions like Dr. Mahmood's are very important and will be taken back to the next meeting.

Ms. Lawson asked for comments from the public. There were no public comments.

Agenda Item 22 Presentation on the Enforcement Process

Ms. Jones began the presentation by saying she hopes to address some of the concerns about communication between Board staff and complainants. Ms. Jones commented that the enforcement process overview chart is on the Board's website and it goes through the enforcement process steps, from when a complaint is received to the final disposition of the complaint, including the appeal process.

Ms. Jones explained that complaints can be received from the public, licensees, government agencies, anonymous sources, and through mandated reporting. Ms. Jones explained that when the complaints are received in the CCU, they are triaged according to the allegations and a letter is sent to the complainant advising them that the complaint was received and they are welcome to submit additional information. Ms. Jones noted that the CCU analyst will check to see if the complainant submitted a signed release form and determines what is necessary to move forward, which may include requesting additional information from the complainant.

Ms. Jones stated that once a release of records is received, the records are requested and the complaint is forwarded to a medical consultant for review. Ms. Jones continued, saying once the case is reviewed, the case may be referred to HQIU for a formal investigation if there is a possible violation, the case may be closed if there is no violation, or a cite and fine may be issued. Ms. Jones noted that the complainant will be notified of the outcome.

Ms. Jones reviewed the formal investigation process, saying an investigator at HQIU may request an interview with the complainant, the physician, and any possible witnesses. Ms. Jones explained that HQIU then submits their report to the Board, where Board staff determine if the case will be forwarded to the AGO, referred for cite and fine, or closed.

Ms. Jones reviewed the disciplinary process, saying the first step is filing an accusation. Ms. Jones commented that the Board is attempting to interject earlier and address settlements, if possible, and is also asking for surrenders quickly in the process. Ms. Jones spoke of mandatory settlement conferences, saying cases that cannot be settled early go to a hearing with an administrative law judge (ALJ).

Ms. Jones commented that the same number of complaints received in 2020 is expected for 2021. Ms. Jones explained that the number of disciplinary actions shown in the diagram are not necessarily from the current years' complaints, but rather a culmination of cases that were resolved and have been pending with HQIU and the AGO.

Ms. Jones reviewed the probation process, saying once a licensee is placed on probation, the probation unit contacts the licensee and the licensee is assigned a probation monitor. Ms. Jones noted that this process has changed due to COVID-19, saying that meetings have been via telephone or online, but in-person meetings will continue as the state opens back up. Ms. Jones commented that the probation monitor reviews the terms of the probation order with the licensee, who do not always understand the terms. Ms. Jones also commented that the probation monitor will have consistent contact with the licensee on probation. Ms. Jones explained that there is a separate unit that monitors all of the testing on a daily basis, and the test results are shared with the probation monitors. Ms. Jones commented that confirmation of compliance with the probation terms is the responsibility of the probation monitor.

Dr. Yip asked how many cases, on average, Board staff are monitoring. Dr. Yip also asked if there is a CME requirement for licensees on probation.

Ms. Jones replied that she will get the information for the number of cases and follow up with him. Ms. Jones also replied that Board staff review the CME submitted as part of the educational courses outlined in the probation order.

Dr. Yip asked who gives the final approval for the CME courses.

Ms. Jones replied that the probation monitor and supervisor, in consultation with the medical consultant, approve the courses.

Dr. GnanaDev commented that, during her update, Ms. Nicholls mentioned anonymous complaints being triaged in HQIU and asked Ms. Jones to expand on that.

Ms. Jones replied that she is concerned about anonymous complaints and is interested in working with Ms. Nicholls to set up protocols for triaging anonymous complaints.

Dr. GnanaDev requested a presentation at the next Board meeting for the protocol.

Dr. Thorp asked if probation monitors are under the Enforcement Unit of the Board.

Ms. Jones replied that probation monitors are part of the Board's enforcement staff.

Dr. Thorp asked if a probation monitor was different than a practice monitor.

Ms. Jones confirmed that a probation monitor is different than a practice monitor.

Dr. Hawkins asked about whether the Probation Unit is receiving quarterly declarations timely.

Ms. Jones replied that she has reviewed this question and would like to get more information to see what percentage of cases have delays.

Ms. Lubiano commented that she would like to see a drill down of the enforcement process flow chart, particularly with the expert review process. Ms. Lubiano asked if there is a designated feedback loop with regard to the expert review process and closing complaints.

Ms. Jones responded that there is a feedback loop, saying a case is sent to an expert and they submit their report to HQIU. Ms. Jones continued, explaining that the case is then sent to the medical consultant to see if there is any feedback, and then the case is forwarded to the Board for review. Ms. Jones commented that some complainants may feel like something was missed when a case is closed, and enforcement reviews those instances, sometimes sending them out for a second review.

Dr. Hawkins asked if the district medical consultants are involved in the various processes throughout the various stages of a case or only in certain stages.

Ms. Jones responded that the district medical consultant is an integral part of the investigation process and explained the various stages where they are involved.

Dr. Mahmood commented that expert reviewers may be biased to make their opinion more favorable to the Board and suggested independent training. Dr. Mahmood also commented that there should not be that much of a difference of opinion in expert reviewers.

Ms. Jones commented that she disagrees that expert reviewers may feel inclined to favor the Board. Ms. Jones also commented on instances when expert reviewers didn't consider specific issues or they may have changed their minds, saying this is why the Board is working to refine the expert pool and provide the best experts possible.

Mr. Watkins asked if Board staff are following the procedures for communicating with complainants during each part of the process.

Ms. Jones replied that Board staff does follow the process and a letter is sent out at each point of the process.

Mr. Watkins requested this data be included in the quarterly reports, saying this is where the public trust wanes. Mr. Watkins spoke of building public trust and showing that the Board is doing everything it can.

Ms. Jones agreed with Mr. Watkins about building public trust. Ms. Jones commented that there are times when complainants want to speak with the medical consultants or experts but that level of disclosure is not allowed.

Ms. Campoverdi asked how much detail goes into the letters when a case is closed.

Ms. Jones responded that the letters do not have a lot of specific information about the case, saying it depends on the stage that the case closed for the wording of the letter, but the specifics are not included.

Ms. Campoverdi commented that this would be a great opportunity to build the Board's trust with the public and the language in the letters should be reviewed.

Ms. Jones commented that the letters were revised in 2018/2019 and that she will look at revising them again.

Dr. Yip commented that the Board cannot be too specific in the letters due to legal reasons but the Board can try to be more sensitive in the language used.

Ms. Lawson asked for comments from the public.

Ms. Nicholls clarified her earlier comment regarding anonymous complaints, saying any case involving impairment and patient harm should be addressed. Ms. Nicholls commented that she looks forward to working with Ms. Jones to develop criteria for triaging complaints.

Mr. Andrist commented that he can prove why the public distrusts Ms. Jones and the Enforcement Unit, citing a case that the Board closed but later had to reopen. Mr. Andrist disagreed that complainants are communicated with throughout the complaint process and stated that a CCU analyst never asked him for additional information for his complaints. Mr. Andrist commented that his recent complaints submitted on behalf of The Patient Safety League were all closed, including a complaint against a physician that he has found multiple violations against.

Ms. Webb informed Mr. Andrist to stop speaking about a specific case that may come before the Board for decision and advised him that his use of profanity is inappropriate.

Ms. Hollingsworth commented on the disciplinary rate given during the presentation, saying the explanation given was confusing. Ms. Hollingsworth requested clarification on how the number is reached. Ms. Hollingsworth commented that the disciplinary rate is the lowest that it has been in a long time and was surprised to learn that California's rate is similar to other medical boards in other states, saying it is appalling that so many boards have a low disciplinary rate. Referring to the Board member confirmation hearing, Ms. Hollingsworth encouraged Board members to know its statistics.

Ms. Hildebrand commented on the disparity of enforcement of physicians who write vaccine exemptions.

Ms. Himes commented on the outcome from complaints against a physician in Bakersfield, saying a campaign has been created in Kern County to educate young mothers to engage in their own health care. Ms. Himes also commented that this physician is breaking the terms of his probation by not notifying new patients that he is on probation. Ms. Himes continued, saying the physician's probation monitor has ignored the public's complaints that the physician is ignoring the probation terms.

Ms. Escalera commented on the physician from Bakersfield, sharing her personal experience with the physician.

Ms. Dominguez commented on the disciplinary action taken on the physician from Bakersfield, the campaign set up in Kern County, the physician not notifying patients that he is on probation, and the probation monitor ignoring the public's complaints.

Ms. Monserratt-Ramos commented on the advocate mothers in Kern County who sent letters to their state legislators, saying they have the attention of their senators. Ms. Monserratt-Ramos commented that the public speaker who shared her personal experience never received a letter from the Board after submitting the complaint. Ms. Monserratt-Ramos asked the Board to take action on this licensee.

Ms. Manatt asked if there is data available from the flow chart that was presented regarding the timeframes for a case, commenting that she would like to know which parts take longer and which parts are more efficient.

Ms. Lawson commented that, since Board members and staff cannot answer public comments, she will follow up on the question just asked.

Mr. Rizzo continued Mr. Andrist's comments, saying a physician, for whom a complaint was submitted, was allowed to continue to practice even though he had charges against him. Mr. Rizzo expressed his dissatisfaction with the Board and its enforcement process.

Ms. Lawson asked Ms. Jones if there is data available that shows where a complaint is at in the process and how many complaints are at specific stages of the process.

Ms. Jones replied that the matrix in the Enforcement Program Summary shows the cases and the aging of the cases in each step at CCU and HQIU.

Dr. Hawkins asked whose responsibility it is to follow up on the Bakersfield physician not notifying patients of his probation.

Ms. Jones replied that she will check into the issue after the Board meeting.

Dr. GnanaDev commented that the probation monitor is supposed to monitor all of the probation terms and asked Ms. Jones to look into the issue.

Mr. Watkins also requested Ms. Jones to look into the issue with the Bakersfield physician.

Ms. Campoverdi requested all of the complaints against the Bakersfield physician and the probation monitor be on record.

Agenda Item 23 Update and Possible Action on Revising Guidelines for Prescribing Controlled Substances for Pain

Mr. Prasifka began by saying the issue of prescribing controlled substances is a core issue for the Board, saying it is of continuing importance in both discipline actions and in terms of setting general policy levels. Mr. Prasifka spoke of good and bad doctors and commented that clear guidance is needed. Mr. Prasifka commented that the Board's guidelines were last put into place in 2014 and a lot of change has happened since then.

Mr. Prasifka stated that updating the guidelines will be a comprehensive process involving stakeholders, which could take up to 18 months to two years from inception to completion. Mr. Prasifka commented that revising the guidelines is a sensible and prudent use of the Board's resources and recommended a task force to undertake this important project.

Ms. Lawson asked for comments from Board members.

Dr. Thorp agreed with the recommendation and stated it is a prudent step to update the guidelines. Dr. Thorp commented that he would like to be a part of the process.

Mr. Watkins requested Dr. Waller, who presented on pain management at a previous Board meeting, be consulted for this project, saying he has great insight on how to address this problem.

Dr. GnanaDev asked if a motion is needed for this agenda item.

Ms. Lawson asked Ms. Webb if a motion is needed to delegate the Board president to appoint a task force to address this issue and provide direction to staff to undertake a review of the guidelines.

Ms. Webb recommended a motion be made since it will use a lot of resources, saying it would be good to have the full support of the Board.

Dr. Krauss commented that a motion is appropriate to approve the task force but the assignment of the two Board members to the task force is at the discretion of the Board president.

Dr. GnanaDev moved to approve the recommendation/S: Dr. Hawkins

Dr. Yip commented that Dr. Tirado is an anesthesiologist and may be helpful on the task force.

Ms. Lawson asked for public comments. There were none.

Ms. Lawson asked Board members interested in serving on the task force to send her an email. Ms. Lawson asked Ms. Caldwell to take the roll.

Motion carried 12-0

Ms. Webb clarified Ms. Lawson's request, asking interested Board members send Mr. Prasifka an email in order to avoid conflicts with the Open Meeting Act.

Agenda Item 24 Presentation from the Board of Registered Nursing on AB 890

Ms. Melby began by reviewing AB 890, saying the bill was signed into law in the fall of 2020 and started on January 1, 2021. Ms. Melby commented that it is the Board of Registered Nursing's (BRN) intention to have regulation promulgated as quickly as possible with the due date being January 1, 2023.

Ms. Melby reviewed some of the provisions of the bill, saying there is a publicly noticed meeting to be held next week where the advisory committee members will be appointed and the BRN will vote on the appointments. Ms. Melby continued, saying after the advisory committee is established, they will begin working on the regulatory language, reviewing the bill, and working with their legislative office. Ms. Melby commented that it is BRN's hope to present the implementation plan at their regularly schedule board meeting later in the month.

Ms. Melby commented that one of the main things they will focus on is the transition to practice, saying the BRN held a committee meeting for this process and provided recommendations. Ms. Melby stated that the BRN reviewed the information that the Board has on its website for 805 reporting and is using that as a guideline for their process.

Ms. Melby briefly reviewed the implementation plan, saying the BRN has received over 300 applications for the advisory committee that need to be processed and reviewed, which caused a delay in getting the committee in place. Ms. Melby commented that once the committee members are appointed, they will go through Board Member Orientation training through DCA and then begin promulgating the regulation through the Office of Administrative Law (OAL). Ms. Melby mentioned information technology will need to be developed, including license verification on the website.

Ms. Melby gave her contact information and asked if there were any questions.

Dr. GnanaDev commented that Board staff should work with BRN to offer help.

Ms. Melby commented that the BRN will have stakeholder meetings and she plans to continue to give updates at the Board's regular meetings.

Dr. Lewis commented that he would like to know more about the advisory committee.

Ms. Melby responded that the committee is not yet formed but there are statutory requirements of four nurse practitioners, two physicians, and one public member.

Ms. Lawson asked for comments from the public.

Ms. Choong thanked Ms. Melby for her presentation and the BRN's commitment to engaging in the implementation process in a transparent manner. Ms. Choong commented that the CMA looks forward to participating in the process and providing assistance and input.

Ms. Jovanov commented that there is no transparency in regards to the selection and review of the applicants for the advisory committee. Ms. Jovanov shared that two of the tentative members come from one academic institute in San Diego, which also represents the BRN president. Ms. Jovanov requested transparency on the selection process.

Agenda Item 25 Discussion and Possible Action on Implementation Plan for AB 890

Mr. Bone reviewed the proposed next steps for the Board's involvement in the process of the implementation plan for AB 890, including monitoring BRN meetings, determining whether additional meetings are necessary, possible future agenda items pertaining proposed regulations for AB 890, evaluate whether the Board needs regulation and policy changes related to AB 890, work with the BRN on joint communication efforts, and inviting the BRN to future Board meetings to provide updates.

Ms. Lawson asked for questions or comments from Board members.

Dr. Krauss moved to approve the proposed implementation plan/S: Dr. Thorp

Ms. Lawson asked for comments from the public.

Ms. Reyes thanked Ms. Melby and Mr. Bone for presenting the implementation plan. Ms. Reyes commented that the California Academy of Family Physicians supports the Board being an active participant of the implementation process as well as the recommendations from Board staff, specifically evaluating regulatory changes.

Ms. Choong commented that the CMA supports the proposed implementation plan. Ms. Choong commented that the CMA urges the Board to develop guidance informed by a

thorough policy and legal analysis of AB 890 on how the Board views the roles and responsibilities of physicians under this framework.

Ms. Lawson asked for comments from the public.

Mr. Andrist commented that one third of California's doctors do not belong to the CMA, and that most doctor members join due to mandates from their local medical societies.

Ms. Lawson asked Ms. Caldwell to take the roll.

Motion carried 12-0

Agenda Item 26 Future Agenda Items

Dr. Krauss requested a presentation from an expert at an appropriate California academy to present on CME's as a means for an outcome analysis for quality assurance, as well as an expert opinion on the role of the government legislating CME.

Dr. Mahmood requested the Board look into how we reach out to the public and making it easier for consumers to reach us.

Dr. Yip requested a task force, to include Dr. Lewis and Dr. Hawkins, to look into the increase in the number of complaints. Dr. Yip also requested a presentation to define alcohol and substance abuse in physicians and what those guidelines are.

Ms. Lubiano and Dr. Krauss requested an agenda item on cultural competency training. Ms. Lubiano commented that the Board should look into changing the BPC from being voluntary to a requirement.

Mr. Watkins requested a follow up on the issues from the Bakersfield physician comments and asked that Board staff report back with the outcome.

Dr. Tirado requested a discussion on telehealth, including regulation changes and expectations.

Ms. Lawson asked for comments from the public.

Ms. Hildebrand commented that she would like the Board to look into using newer research and treatment rather than using the standard of care.

Dr. Hawkins asked for clarification on what Ms. Hildebrand requested.

Ms. Hildebrand explained that physicians are held to the standard of care, and that some hospitals use more cutting edge technology, which may not be considered the standard of care. Ms. Hildebrand requested a presentation on why the standard of care should be used over newer research.

Mr. Andrist spoke to a comment Dr. Mahmood made, saying the sunset report shows there is already a public outreach committee. Mr. Andrist also commented on Ms. Webb, saying she is overreaching during public comments. Mr. Andrist referenced a ruling that the Supreme Court made regarding profanity and the first amendment. Mr. Andrist requested an agenda item to let the public know how they may find ongoing cases that cannot be discussed. Mr. Andrist also requested the online Board meeting platform display which agenda item is currently being discussed. Lastly, Mr. Andrist requested a discussion on how COVID-19 has affected doctor discipline.

Ms. Hollingsworth suggested a future agenda item to review the disciplinary guidelines and how the Board does or does not follow them. Ms. Hollingsworth also suggested a future agenda item discussing how doctors identify themselves during telehealth appointments.

Ms. Choong requested a presentation on the bar of the corporate practice of medicine.

Ms. Lawson asked Board members if they had any other future agenda items they would like to see.

Ms. Campoverdi requested a presentation on how medical experts are recruited and trained.

Agenda Item 27 Adjournment

Ms. Lawson adjourned the meeting at 11:51 A.M.

Signature on File	05/13/2021
Kristina Lawson, President	Date

Signature on File	05/13/2021
Dr. Hawkins, M.D., Secretary	Date

Signature on File	05/13/2021
William Prasifka, Executive Director	Date