



MEDICAL BOARD OF CALIFORNIA

QUARTERLY BOARD MEETING



Los Angeles Airport Marriott
5855 W. Century Blvd.
Los Angeles, CA 90054

Thursday May 7, 2015
Friday May 8, 2015

MEETING MINUTES

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

Members Present:

David Serrano Sewell, J.D., President
Dev GnanaDev, M.D., Vice President
Denise Pines, Secretary
Michelle Bholat, M.D.
Michael Bishop, M.D.
Randy Hawkins, M.D.
Howard Krauss, M.D.
Sharon Levine, M.D.
Ronald Lewis, M.D.
Gerrie Schipske, R.N.P., J.D.
Jamie Wright, Esq.
Barbara Yaroslavsky
Felix Yip, M.D.

Members Absent:

Elwood Lui

Staff Present:

Liz Amaral, Deputy Director
Irene Bisson, Inspector III
Sandra Borja, Inspector II
Dianne Dobbs, Department of Consumer Affairs, Legal Counsel
Steven Froberg, Inspector I
Ruben Garcia, Inspector II
Kimberly Kirchmeyer, Executive Director
Armando Melendez, Business Services Analyst
Cajetan Onu, Inspector I
Dino Pierini, Business Services Analyst
Regina Rao, Associate Government Program Analyst
Elizabeth Rojas, Business Services Officer
Paulette Romero, Staff Services Manager II, Central Complaint Unit

Jennifer Simoes, Chief of Legislation
Adrienne Smith, MST
Lisa Toof, Administrative Assistant II
Rachel Wacholz-LaSota, Inspector III
Kerrie Webb, Legal Counsel
Curt Worden, Chief of Licensing

Members of the Audience:

Jeremy Adler, Physician Assistant, California Academy of Physician Assistants
Teresa Anderson, California Academy of Physician Assistants
Carmen Balber, Consumer Watchdog
Jodi Barber, Consumer Watchdog
Larry Bennett, Investigator, Department of Consumer Affairs
Lisa Bond, Consumer Watchdog
Evelyn Bravo-Ayala, Senator Hertzberg's Office
Gaye Breyman, California Academy of Physician Assistants
Adam Carter, Senator Lui's Office
Gloria Castro, Senior Assistant Attorney General Attorney General's Office
Yvonne Choong, California Medical Association
Kang Chot, Midwestern University
Zennie Coughlin, Kaiser Permanente
Julie D'Angelo Fellmeth, Center for Public Interest Law
Ververly Edwards, Consumer's Union
Karen Ehrlich, L.M., Midwifery Advisory Council
Julie Eschot, Supervising Investigator I, Department of Consumer Affairs
Yotham Fraenkel, Midwestern University
Lou Galiano, Videographer, Department of Consumer Affairs
Bridget Gramme, Center for Public Interest Law
Richard Granese, SCPA
Marion Hollingsworth, Consumers Union
Anthony Jackson, M.D., Black American Political Association of California
Jennifer Kamel, Founder/Director, VBAC Facts
James Kennedy
Christine Lally, Department of Consumer Affairs
Lisa McGiffert, Consumers Union
Albert Medina, Investigator, Department of Consumer Affairs
Guy Menme, California Academy of Physician Assistants
Greg Mennie, M.D., California Academy of Physician Assistants
Michelle Monseratt-Ramos, Consumers Union
Carol Moss, Consumer's Union
Ty Moss, Consumer's Union
Bob Pack, Consumer Watchdog
Robert Park, Assemblymember Santiago's Office
Robert Pulido, Supervising Investigator
T.S.S. Rajan, M.D., Black American Political Association of California
Sylvia Salcedo, Investigator, Department of Consumer Affairs

Suely Saro, Senator Lara's Office
 A.R. Savage, Black American Political Association of California & National Association for the Advancement of Colored People
 Andrew Sou, Midwestern University
 Carrie Sparrevohn, Midwifery Advisory Council Chair
 Jack Sun, Investigator, Department of Consumer Affairs
 Pawarid Techathaveewat
 Audrey Tse, Midwestern University
 Paul Yost, M.D., California Society of Anesthesiologists

Agenda Item 1 Call to Order/Roll Call

Mr. Serrano Sewell began by introducing the two newest Board Members, Dr. Hawkins, and Dr. Bholat. He welcomed them by administering the ceremonial oath of office to each new member.

Mr. Serrano Sewell called the meeting of the Medical Board of California (Board) to order on May 7, 2015 at 1:06 pm. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Public Comments on Items not on the Agenda

Lisa McGiffert, Director of Consumers Union Safe Patient Project, requested the Board to put an item on the July 2015 agenda. She would like a discussion on changing the disciplinary guidelines so all physician probation orders include a requirement to notify their patients.

Agenda Item 3 Approval of Minutes from the January 29-30, 2015 Meeting

Ms. Kirchmeyer announced that there was an amendment made to the bottom of page 25 and the top of page 26 of the meeting minutes to include a comment that was received by Ms. D'Angelo Fellmeth. She noted the two amended pages were handed out to each Board Member and that there were public copies available on the back table in the room.

Dr. Lewis made a motion to approve the meeting minutes with amendments; s/Ms. Yaroslavsky. Motion carried. 10 Support, 3 Abstain (Bholat, Hawkins, and Schipske).

Agenda Item 5 President's Report

Mr. Serrano Sewell stated, he and Dr. GnanaDev continue to meet with the Board Executive Director and staff regularly to discuss projects at the Board and to ensure everything is moving forward as needed for the Board Meetings.

Mr. Serrano Sewell stated the first annual Legislative Day took place on February 26, 2015, and was a success. Dr. Lewis, Ms. Pines, Ms. Yaroslavsky, and himself, along with Board staff, met with various Legislators and Chairs of Committees at the State Capitol.

They discussed the mission of the Board and the work that it does. He stated the meetings were appreciated and welcomed by the Legislators' offices.

Mr. Serrano Sewell noted one item that seemed to be a concern of the Legislative and Committee's staff was the Board's Interim Suspension Orders (ISOs).

Dr. Lewis stated that many of the Legislative and Committee staff were unfamiliar with the mission of the Board, and it gave the Members the opportunity to define, in detail, just what the Board does, and he felt the meetings were beneficial to all who participated. Ms. Yaroslavsky felt the Legislative and Committee staff were very engaged in the conversations, queried the Members on different issues, and she felt these meetings were beneficial.

Mr. Serrano Sewell then referred the members to pages BRD 5-1 and BRD 5-2, which consisted of the Board's updated Committee Roster. This roster includes the Committee appointments of the two new Board Members. He reminded the members that if anyone would like to consider changing Committees, to please let Ms. Kirchmeyer know.

Agenda item 6 **Discussion and Possible Action on Legislation/Regulations**

Ms. Simoes began by stating she contacted all Legislative district offices in the Los Angeles area and invited them to the Board Meeting.

She stated the agenda now has to include all of the legislative bills that will be and/or could be discussed at each meeting. She has listed all of these bills with this possibility, though some may not have to be discussed. She presented on the following bills.

SB 482 (Lara) would require all prescribers issuing Schedule II and III drugs to access and consult the CURES database before prescribing or dispensing. This bill would further the Board's goal of consumer protection and take steps forward in addressing the issue of doctor shopping and opioid abuse. Board staff suggested that the Board support this bill.

Ms. Saro, Senator Lara's Office, the author of SB 482, requested the Board support this bill.

Dr. Hawkins stated, as a physician in private practice, he finds the CURES system easy to use and very helpful.

Dr. Krauss noted he has some concerns about Legislative language that sets a requirement on the physician prior to prescribing, without having specification of performance of the system. He recommended working with the author to ensure there is language that frees the physician of liability from day to day, should the CURES system not be functioning as required for whatever reason.

Dr. Levine stated her concerns regarding the fact that the pharmacists were removed from the original version of the bill and asked what the reason was for that omission.

Ms. Saro responded, stating that current law already requires pharmacists to report what they are dispensing, which is the reason for the omission.

Ms. Schipske requested the Board take a position that the author includes language that would make the pharmacists be required to use the CURES system as well. She then asked the reason that The California Medical Association (CMA) opposed this bill.

Dr. Lewis stated his concerns about the language in the bill referring to “real time” or not. Ms. Kirchmeyer noted there is current law that allows pharmacists seven days to enter the information into the CURES system. Until that law is changed, it will remain at the seven day allowance. She stated that even at seven days; the CURES system will be able to tell a physician if a patient has been “doctor shopping” or has gone to multiple physicians.

Ms. Kirchmeyer then responded to Dr. Krauss’ concern about the liability of a physician using the CURES system, should the system not be functioning at some point. She read a section of language already written in the current bill, that would free the physician of liability should the system be down for any reason.

Dr. Lewis made a motion to support SB 482, if amended to include further definition on what it means to have the CURES system “up and running,” and to have the dispensers added back in to the bill’s language; s/Ms. Yaroslavsky.

Jodi Barber shared her story of her son who passed away in year 2010 due to overprescribing and feels that the use of the CURES system can prevent this from happening to another family.

Carmen Balber, Director of Consumer Watchdog, stated her support for SB 482 and encouraged the Board to support it as well.

Julie D’Angelo Fellmeth, Center for Public Interest Law, stated it does not make any sense to require physicians and dispensers to register with the CURES system unless it is a requirement for them to check it prior to prescribing an addictive controlled substance to patients. She encouraged the Board to support SB 482.

Yvonne Choong, CMA, stated CMA is in opposition of SB 482. They feel this bill is premature and runs opposite of the work the Board has done related to prescription drug abuse and are finding that currently, many physicians, while not required to register and/or use CURES are still using the current CURES system. She stated CMA’s concerns are about the issue of the language in the bill stating that implementation being contingent upon certification of the system by the Department of Justice (DOJ). CMA does not feel that is enough. They believe there should be some kind of third party verification that the system actually works as DOJ states. CMA is concerned the impact of this bill is going to be on patients that have legitimate pain needs. CMA is urging the Board’s opposition of this bill.

James Kennedy encouraged the Board's support of SB 482. He shared his story of the loss of his son due to overprescribing, and feels that this bill will help prevent this from happening to other families.

Motion carried unanimously.

SB 396 (Hill) would make changes to the outpatient setting laws. Ms. Simoes pointed out specific pieces of the bill that could affect the Board. She stated this was an update only and no vote was needed.

Yvonne Choong, CMA, stated they are taking of an oppose, unless amended position on SB 396. Their concerns arise from some of the proposed changes and their impact on a facility, depending on its structure. Since outpatient surgery settings can be a small single physician office or a larger facility with multiple clinicians, they believe that changes to the regulatory structure could have different impacts on a facility depending on its size and structure. They feel it is unclear what the Board is trying to accomplish. The reporting requirement would place both administrative and financial burdens on facilities and CMA feels there needs to be more clarity about what the Board is trying to achieve before imposing these requirements.

SB 408 (Morrell) would establish training requirements in statute for midwife assistants and parameters on what services can be provided by midwife assistants, which would further the Board's mission of consumer protection. For this reason, the Board voted to sponsor this important legislation. Amendments were taken in Committee to address concerns raised by the CMA and the American College of Obstetricians and Gynecologists and to add Certified Nurse Midwife (CNM) as supervisors, as requested by the CNM Association. Ms. Simoes stated this was an update only and no vote was needed.

SB 800 (Omnibus) (Committee on Business, Professions, and Economic Development) is the vehicle by which omnibus legislation has been carried by the Senate Business, Professions, and Economic Development Committee. This bill would specifically authorize licensed midwives, non-resident contact lens sellers, spectacle lens dispenser, contact lens dispensers, registered dispensing opticians, and polysomnographic technologists, technicians, and trainees to petition the Board for reinstatement or termination/modification of probation. Ms. Simoes stated, there are also several technical, clean up amendments in the bill. These statute changes have already been approved by the Board to be included in the omnibus bill. She added this was an update only, and no vote was needed.

AB 34 (Bonta and Jones-Sawyer) would give the Board some much needed enforcement tools to more efficiently regulate physicians who recommend marijuana for a medical purpose. This bill expressly requires a physician to perform an appropriate prior examination before recommending marijuana for a medical purpose. This is an important amendment because the prescribing requirements in existing law do not necessarily apply to marijuana recommendations. This bill would also make marijuana recommendation

cases a priority for the Board, which will help to ensure consumer protection. Lastly, this bill would not allow physicians to be employed by marijuana clinics or dispensaries, which will help to ensure that physicians are not making marijuana recommendations for financial or employment reasons. In January, the Board voted to support AB 26 (Jones-Sawyer), which includes very similar language as the language included in this bill. The only exception is the requirement for an in-person examination. The Board supported AB 26 because it would provide the Board with enforcement tools that would help ensure consumer protection. Ms. Simoes suggested the Board take a support position on this bill.

Dr. Krauss expressed his concerns about the in-person examinations being removed from the bill; he would recommend continuing to ask the author to include in-person examinations for marijuana recommendations in this bill.

Dr. Lewis made a motion to support AB 34; s/Dr. Levine. Motion failed. 7 Abstain (Bholat, GnanaDev, Krauss, Yip, Pines, Wright, Yaroslavsky), 5 Support (Bishop, Hawkins, Levine, Lewis, Serrano Sewell), 1 Oppose (Schipske)

Dr. Krauss made a new motion to support AB 34 if amended to include an in-person examination; s/Dr. Yip. Motion carried. 11 Support, 2 Opposed (Serrano Sewell, Lewis)

AB 266 (Cooley) & SB 243 (McGuire) would both put various licensing and enforcement requirements on medical marijuana dispensaries and cultivation facilities and would create a Bureau of Medical Marijuana Regulation (Bureau) in the Department of Consumer Affairs that would be the regulatory agency performing the licensing functions. It would also give local agencies the primary responsibility for enforcement of Bureau standards, in accordance with Bureau regulations. These bills would both impose almost identical requirements on physicians recommending marijuana to patients for medical purposes and on the Board. Ms. Simoes stated, the discussion only covered the portions of the bills related to the requirements on physicians recommending medical marijuana and the requirements of the Board.

These bills would also require the Board to consult with the Center for Medicinal Cannabis Research (CMCR) when developing guidelines, but do not expressly require the Board to develop and adopt guidelines for the appropriate administration and use of marijuana. If these bills were to pass, the Board would need to update its current statement and at that time would consult and solicit input from the CMCR.

Ms. Simoes suggested the Board take a neutral position on both AB 266 and SB 643.

Dr. Levine made a motion to take a neutral position on both AB 266 and SB 643; s/Ms. Yaroslavsky. Motion carried unanimously.

AB 483 (Patterson) would require initial licensing fees for physicians and surgeons to be prorated on a monthly basis. This bill would require the Board to prorate the initial licensing fees to ensure that licensees are not overcharged. This bill could accomplish

that, however it would result it delays in issuing licenses and increased workload. If this bill were to pass, it would require the Board, once all documents are received, to calculate a prorated amount that would result in delays in issuing licenses. Board staff believes that the goal of this bill could be obtained by requiring the Board to issue a straight two-year license. This would ensure the applicants are not overcharged and would not create any additional steps in the licensure process. Staff discussed this with the author's office and they are willing to remove the Board from this bill if the Board is added to AB 773 (Baker), which would change the initial license time period to a two-year license. Ms. Simoes is recommending taking a neutral if amended position on this bill.

Dr. Lewis made a motion to take a neutral if amended position on this bill; s/Ms. Yaroslavsky. Motion carried. (Wright absent from vote)

AB 637 (Campos) would allow nurse practitioners (NPs) and physician assistants (PAs), under physician supervision, to sign Physician Orders for Life Sustaining Treatment (POLST) forms. NPs and PAs are currently involved in providing end-of-life care to patients in California. Therefore, it would make sense to allow them to sign off on POLST forms to ensure that patients have better access to providers who can assist in establishing end-of-life care orders. This bill would further the Board's mission of promoting access to care. Board staff recommends the Board take a support position on this bill.

Theresa Anderson, California Academy of Physician Assistants (CAPA) stated CAPA supports this bill and encouraged the Board's support.

Dr. Lewis made a motion to take a support position on this bill; s/Dr. Yip. Motion carried. (Wright absent from vote)

AB 684 (Bonilla) would place a moratorium on discipline for registered dispensing opticians and optometrists (RDOs) by the Board or the California Board of Optometry (CBO) for engaging in any business relationship prohibited by the Business and Professions Code Section 655. This bill would take effect immediately, as it contains an urgency clause. AB 595 (Alejo) was introduced this year and was the result of numerous meetings between the National Association of Optometrists and Opticians, California Optometric Association, and other optical stakeholders, including the Board and CBO. AB 595 would have changed the business model of RDOs in California, would have allowed for occupancy arrangements between an optometrist and RDO, would have allowed for direct employment of an optometrist by an optical company, and would have deleted other advertising prohibitions in existing law, among other business model changes. AB 595 included protections for an optometrist's clinical judgment to address concerns that an RDO would influence or interfere with the clinical decision of an optometrist.

AB 684 would allow time, until January 1, 2017, for the business model arrangement issues to be worked out in AB 595. At this time, putting a moratorium on disciplinary action for RDOs and optometrists makes sense; however, the language in the current

moratorium is too broad and needs to be better defined. If changes were made to address the concern, it would allow the issue of optical business models in California to be addressed and ensure RDOs and optometrists are not penalized while AB 595 is being worked through the Legislature. Ms. Simoes suggested the Board take a neutral if amended position.

Dr. Krauss made a motion to take a neutral if amended position; s/Dr. Levine. Motion carried. 11 Support, 1 Abstain (Bholat), (Wright absent from vote)

AB 773 (Baker) would require licenses issued by the California Board of Psychology to be valid for two years from issuance. This bill is attempting to resolve the same overpayment issue that AB 483 (Patterson) would address for licenses issued by the California Board of Psychology. This bill would require the Board of Psychology to issue licenses that are valid for two-years from the time of issuance. This would solve the issue of overpayment, but not result in delays in issuing licenses. Board staff believes that a two-year license would be a better way to resolve the issue of license fee overpayment. Board staff has discussed adding the Board to this bill with the author and her staff, and they are willing to add the Board to this bill. Ms. Simoes suggested that the Board support this bill if it is amended to add physician and surgeon licenses issued by the Board.

Dr. Lewis made a motion to support this bill if amended to add physician and surgeons; s/Dr. Krauss. Motion carried unanimously.

AB 890 (Ridley-Thomas) would enact the Anesthesiologist Assistant Practice Act and would make it unlawful for any person to hold himself or herself out as an anesthesiologist assistant (AA) unless he or she meets specified requirements. The AA is required to work under the direction and supervision of an anesthesiologist, and would be allowed to assist the supervising anesthesiologist in developing and implementing an anesthesia care plan for a patient.

This bill is a title act that would require a person to meet specified requirements in order to hold himself or herself out as an AA. This bill would require an AA to graduate from an AA program recognized by the Commission on Accreditation of Allied Health Education Programs or by its successor agency. An AA would also have to hold an active certification by the National Commission on Certification for Anesthesiologist Assistants. This bill would require an AA to work under the direction and supervision of an anesthesiologist, which must be physically present on the premises and immediately available to the AA when medical services are being rendered. The supervising anesthesiologist must oversee the activities of, and accept responsibility for, the medical services being rendered by the AA. This bill would allow the AA, under the supervision of an anesthesiologist, to assist the supervising anesthesiologist in developing and implementing an anesthesia care plan for a patient.

AAs are highly educated individuals that receive appropriate clinical education and experience to assist anesthesiologists. However, AAs would not receive a license under this bill, so there is no direct regulatory oversight on the medical care being provided by an AA. If an AA were to provide substandard patient care, there is no license to take disciplinary action against and there is no way to stop the AA from practicing. Although the bill would charge the supervising

anesthesiologist with accepting responsibility for the medical services being rendered by an AA, there is not a clear pathway for regulatory oversight other than the normal regulatory oversight provided by the Board for physicians. Ms. Simoes is suggested that the Board take a neutral position if this bill is amended to include a framework to stop an AA that is providing substandard care from practicing.

Dr. Bishop stated he fully supports this bill if amended and noted his reason for supporting it. He stated the nation is facing a shortage of health care providers, which can have an adverse effect on access to care, especially in underserved areas. This bill would help alleviate this shortage. It does not seek to expand the scope of practice of a certain group of providers. The AA program requirements include completion of the Medical College Admission Test (MCAT), the same test required for medical school applicants.

Dr. Bishop stated the Board is mandated to provide consumer protection as its highest priority and there could be no higher component of that mission then ensuring prompt access to care. The bill is currently imperfect, but the intent of this bill is clear, and simply proposes that the State of California allow a group of highly qualified, immediately available health care providers to practice in the state for the benefit of the citizens. He noted his confidence in the author's response to this bill and believes he will readily amend the bill, such as appropriate licensure, supervision and any other safety concerns that need be addressed.

Dr. Bishop made a motion to support this bill if amended to consider licensure rather than certification and to have staff work with the author for oversight provisions; s/Dr. Lewis.

Dr. Yost, President of California Society of Anesthesiologists, sponsor of AB 890, thanked the Board for their service and stated there was a 2010 study that showed there is a shortage of anesthesiologists nationally and California is even worse. He noted California has only 18 anesthesiologist providers per 100,000 population, where the rest of the country has 30 providers per population. He stated anesthesiologist assistants are highly trained, have proven extremely qualified in 17 other states, and are committed to physician-led team-based care. He stated as sponsors of this bill, he would be happy to work with staff on desired language and asked for the Board's support if amended position.

Yvonne Choong, CMA, stated they are in support of this bill. They believe it is a pathway towards having an increased number of allied health providers in anesthesiology practicing under a physician team-based model.

Motion carried. 10 Support, 2 Abstentions (Krauss, Levine), 1 Oppose (Schipske)

AB 1306 (Burke) would remove the physician supervision requirement for CNMs allowing CNMs to manage a full range of primary health services, perform peripartum care, provide emergency care when a physician is not present and perform an episiotomy in all practice settings.

This bill would require a CNM applicant to provide evidence of current advanced level national certification by a certifying body that meets standards established and approved by the Board of Registered Nursing (BRN).

This bill would require the BRN to create and appoint a Nurse-Midwifery Advisory Council (Council), similar to the Board's Midwifery Advisory Council (MAC), which would consist of CNMs in good standing with experience in hospital and non-hospital practice settings, a nurse-midwife educator, as specified, and a consumer of midwifery care. This bill would require the Council to make recommendations to BRN on all matters related to nurse-midwifery practice, education, and other matters specified by BRN, and would require the Council to meet regularly.

This bill would authorize a CNM to manage a full range of primary health care services for women including, but not limited to: primary health care; gynecologic and family planning services; preconception care; care during pregnancy, childbirth, and postpartum period; immediate care of the newborn; and treatment of male partners for sexually transmitted infections. This bill would authorize a CNM to practice in all settings, including, but not limited to, private practice, clinics, hospitals, birth centers, and homes. This bill would authorize a CNM to provide peripartum care in an out-of-hospital setting to low-risk women with uncomplicated singleton-term pregnancies who are expected to have uncomplicated births.

This bill would delete the requirement in existing law that drugs or devices must be furnished or ordered by a CNM in accordance with standardized procedures and protocols.

This bill would authorize a CNM to furnish and order drugs or devices in connection with care rendered in a home. It would authorize a CNM to directly procure supplies and devices, to order, obtain, and administer drugs and diagnostic tests; to order laboratory and diagnostic testing; and to receive reports that are necessary to his or her practice as a CNM and that are consistent with nurse-midwifery education preparation.

This bill would state that a consultative relationship between a CNM and a physician should not, by itself, provide the basis for finding a physician liable for any act or omission of the CNM.

This bill removes physician supervision for CNMs and allows CNMs to provide a full range of primary health care services for women; this is a significant expansion of the CNM scope of practice. Although the Board was supportive of the bill in 2013 that removed physician supervision for LMs, it was because the bill was very restricted and clear on what types of patients LMs could accept, and required physician consultation and approval for patients that did not meet the requirements. High-risk patients cannot be accepted by an LM. This bill would allow a CNM to accept all patients, as long as they are low-risk women with uncomplicated singleton-term pregnancies who are expected to have uncomplicated births. This bill does not define low risk, or uncomplicated birth, so this would be left to the judgement of the CNM. This bill would provide that the practice of nurse-midwifery emphasize informed consent, preventive care and early detection and referral of complication to a physician. However, this bill does not define informed consent or when a CNM has to refer a patient to a physician and for what types of complications. This bill would require CNMs working in a hospital setting to collaboratively care for women with more complex health needs, but does not define collaborative care or complex health needs. Lastly, this bill does not require the Council to have a physician member, which has been important in the Board's experience with the MAC. In addition, it is also unknown how this bill would affect corporate practice, as the bill does not address this issue.

The Board's primary mission is consumer protection and this bill does not currently include parameters on independent CNM practice that would ensure consumer protection. Ms. Simoes recommended that the Board oppose this bill unless it is amended to address the Board's concerns.

Ms. Yaroslavsky made a motion to oppose this bill unless amended to address Boards' concerns; s/Dr. Bishop.

Carrie Sparrevohn, L.M., and Chair of the MAC, noted CNMs are not trained in home births and do not have to have attended a home birth to graduate from midwifery school. She feels that is something that needs to be addressed if they are going to be allowed to work without physician supervision in and out-of-hospital settings. She suggested that when working with the author on amendments, to address those concerns.

Motion carried. 12 Support, 1 Abstention (Schipske)

ACR 29 (Frazier) is a resolution that would make findings and declarations regarding the importance of organ donation. This resolution would proclaim April 20, 2015, as DMV/Donate Life California Day and April 2015 as DMV/Donate Life California month in California. The resolution would encourage all Californians to register with the Donate Life California Registry when applying for or renewing a driver's license or identification card.

The Board had previously voted to be the honorary state sponsor of the specialized license plates in 2013, because the license plate helped to increase awareness and raise money for organ and tissue donation, education and outreach. Ms. Simoes suggested the Board support this bill.

Dr. Levine made a motion to support this bill; s/Ms. Yaroslavsky. Motion carried unanimously.

SB 22 (Roth) was substantially amended since the last Board Meeting. It would now establish a nonprofit public benefit corporation, the California Medical Residency Training Fund (Fund) to establish and fund residency positions.

This bill would require the Office of Statewide Health Planning and Development (OSHPD) to establish a nonprofit public benefit corporation, the California Medical Residency Training Foundation (Foundation). The Foundation would be required to be governed by a board of trustees (BOT) consisting of 13 members. Seven members would be appointed by the Governor, one would be appointed by the Speaker of the Assembly, one would be appointed by the Senate Committee on Rules, and two members would be members of the Board, appointed by the Board, and two members would be members of the Osteopathic Medical Board of California. All members considered for appointment must have an interest in increasing the number of medical residencies in California, an interest in increasing access to health care in underserved areas of California, and the ability and desire to solicit funds for the purposes of this bill. The Governor would appoint the president of the BOT and the members appointed by the Board would serve a four-year term.

This bill would set forth a framework that would allow OSHPD to establish a nonprofit public benefit corporation, the Foundation, which would solicit funding for new residency positions, and

that Foundation to be governed by the BOT, which would include two members appointed by the Board. This bill sets forth criteria for soliciting funding and criteria for establishing new residency positions. This bill would also require public reporting on the funding received, and how it is used. This bill would increase funding for residency programs in California, which will help promote the Board's mission of increasing access to care for consumers. This bill would also allow more physicians to receive residency training and potentially end up practicing in California. Ms. Simoes suggested that the Board change its position from support in concept, to support.

Ms. Yaroslavsky made a motion to support this bill; s/Dr. Lewis. Motion carried unanimously.

SB 277 (Pan) would eliminate the personal belief exemption from the requirement that children receive specified vaccines for certain infectious disease prior to being admitted to any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home or development center. This bill would expand existing annual notification requirements for school districts to include notification to parents or guardians of the immunization rates for each of the required immunizations for the school in which a student is enrolled. Ensuring that children receive the Advisory Committee Immunization Practices (ACIP) recommended vaccination schedule is the standard of care, unless there is a medical reason that the child should not receive the vaccination; this bill would still allow a medical exemption to address these circumstances. Ms. Simoes suggested that the Board support this bill.

Ms. Yaroslavsky made a motion to support this bill; s/Dr. Krauss.

Yvonne Choong, CMA, co-sponsor, stated the recent measles outbreak shows how quickly a disease can have a widespread impact and a person's refusal to vaccinate their children puts their child at risk of catching and spreading vaccine preventable diseases and puts people who cannot vaccinate at risk. Ms. Choong requested the Board support this bill.

Dr. Paul Yost voiced his support of this bill and asked for the Board's support as well.

A concerned parent asked the Board to allow the parents to make their own decisions on whether or not to have the children vaccinated.

Motion carried. 11 Support, 2 Abstain (Pines and Wright)

SB 323 (Hernandez) would authorize a nurse practitioner (NP) who holds a national certification to practice without physician supervision in specified settings. This bill would require a certified NP to refer a patient to a physician or other licensed health care provider if a situation or condition of the patient is beyond the scope of the education and training of the NP. This bill would require a certified NP to maintain professional liability insurance appropriate for the practice setting.

According to the author, this bill would establish independent practice for certified NPs if they work in specified settings. This would enable them to perform all tasks and functions consistent

with their education and training. According to the author, the Institutes of Medicine and the National Council of State Boards of Nursing have recommended full practice for NPs.

This bill significantly expands the scope of practice of a certified NP by establishing independent practice for those certified NPs that work in specified settings. NPs are well qualified to provide medical care when practicing under standardized procedures and physician supervision. The standardized procedures and physician supervision, collaboration, and consultation are in existing law to ensure that the patient care provided by an NP includes physician involvement and oversight, as physicians should be participating in the patient's care in order to ensure consumer protection. In the latest policy committee hearing, the opposition brought up potential oversight of certified NPs by the Board, but it is unclear how the Board could have regulatory authority over a licensee of another regulatory board, the BRN. It is also unknown how this bill would affect corporate practice, as the bill does not address this issue.

This bill would limit independent certified NP practice to specified settings, which may involve other health care providers, including physicians. However, in most circumstances, this bill would not require certified NPs to collaborate, consult, or work with these other health care providers. The Board's primary mission is consumer protection and by expanding the scope of practice for a certified NP, patient care and consumer protection could be compromised. Ms. Simoes recommended the Board take an oppose position on this bill.

Dr. Lewis made a motion to oppose this bill; s/Dr. Bishop. Motion carried. 12 Support, 1 Oppose (Schipske).

SB 337 (Pavley) would establish alternative means for a supervising physician to ensure adequate supervision of a PA for routine care and the administration, provision, or issuance of a Schedule II drug. While the intent of this bill would be to provide flexibility and allow for a more team-based approach in PA supervision, the option that allows a physician to review cases as the physician deems appropriate is too broad and does not ensure adequate supervision of PAs. There would need to be a base included in the language in this bill related to the required physician review, similar to the medical records review meeting requirement (at least 10 times annually). With the language currently in the bill, a physician could decide that a review of two cases a year would be appropriate, and comply with the statute; however, this would not ensure adequate supervision. In addition, this bill would significantly reduce the physician review of medical records for schedule II drug orders from 100 percent to 20 percent. This would be a significant reduction of supervising physician review for types of opioid medications that are prevalent for abuse. Although this bill would require the PA to receive controlled substances training, this reduction in physician review is substantial. Board staff is suggesting that the Board oppose this bill unless it is amended to address these concerns.

Ms. Yaroslavsky made a motion to oppose this bill unless amended to address concerns; s/ Dr. Lewis.

Dr. Bishop stated that as a member of the Physician Assistant Board, he was in attendance of the meeting where this bill was discussed and due to procedural difficulties, the PA Board was not able to ask staff to work with the author to address some concerns. He asked the Board to include

the PA Board's concerns with the Medical Board's concerns when working with the author on this bill. He believes the intent of the bill is good, but it does have some things that need to be worked out.

Dr. GnanaDev supported the oppose unless amended position, but also has some concerns about the prescription drug area of the bill. He wants to be sure consumer protection is there before the Board considers taking any position other than oppose unless amended.

Ms. Kirchmeyer and Ms. Simoes both stated they have concerns about taking the review of medical records for Schedule II drug orders from 100 percent to 20 percent.

Dr. Richard Granese stated that PAs are an extension of the physician that they work with and are an integral part of the medical team and are essential to expanding access to care. He feels this bill does not take into account the experience and the training of the PA.

Teresa Anderson, CAPA, sponsors of the bill, thanked Ms. Kirchmeyer and Ms. Simoes for working with them on this bill. CAPA understands there are some thresholds that need to be looked at and the language enhanced. She stated the bill does not reduce supervision in any way. The physician is still 100% responsible for the care provided by the PA. She noted that CAPA is very willing to work with staff to make this a bill that the Board would support.

Greg Mennie, a practicing PA, stated that chart co-signature remains the law of the land. With today's technology advances, it makes sense to examine some of the outdated areas in regulations and laws. He noted that it makes sense to increase options for documentation and supervision that reflect the advances in team based care. SB 337 only offers a very small change to current law, by updating and recognizing there are other ways to document supervision and ensure adequate and safe team based care. This bill allows team members to design a process that works best for that team and their specific practice as opposed to a one size fits all legal requirement. He asked the Board for its support on this bill.

Jeremy Adler, PA, CAPA, stated SB 337 does not reduce supervision, but allows the physician flexibility on how they choose to document their supervision mandate, balanced with sufficient safeguards to ensure consumer protection.

Motion carried unanimously.

SB 538 (Block) would expand the scope of practice for a Naturopathic Doctor (ND) and would allow an ND to prescribe certain drugs without physician supervision and perform minor procedures. Although NDs may be well qualified to practice naturopathic medicine that utilizes natural medicine and treatments in a natural approach, NDs do not receive the education and training in naturopathic education programs to safely perform minor procedures and prescribe without physician supervision. Physician supervision helps to ensure that the patient care provided by an ND includes physician involvement and oversight. The Board's primary mission is consumer protections and by expanding the scope of practice for an ND, patient care and consumer protection could be compromised. Ms. Simoes recommended the Board take an oppose position on this bill.

Dr. Lewis made a motion to take an oppose position on this bill; s/Dr. Levine. Motion carried unanimously.

SB 622 (Hernandez) would expand the scope of practice for optometrists to include the ability to order specified tests, perform laser and minor procedures, and administer vaccines. This bill would specify optometrists diagnosing or treating eye disease shall be held to the same standard of care to which physicians and surgeons and osteopathic physicians and surgeons are held. This bill would require an optometrist to consult with, and if necessary, refer a patient to that physician and surgeon or other appropriate health care provider when a situation or condition occurs that is beyond the optometrist's scope of practice.

This bill would state legislative intent that the OSHPD, under the Health Workforce Pilot Projects Program, designate a pilot project to test, demonstrate, and evaluate expanded roles for optometrists in the performance of management and treatment of diabetes, mellitus, hypertension, and hypercholesterolemia.

This bill has been significantly amended and narrowed, compared to SB 492 from last year. It would create certification programs for optometrists to perform laser procedures, minor procedures, and specified immunizations. At issue with the opposition is the length of additional training and the number of procedures required. This bill would now require certified optometrists to perform procedures on live patients as part of the required clinical training, which is a step in the right direction. However, this may not be enough training and education to ensure consumer protection. Ms. Simoes suggested the Board oppose this bill unless it is amended to require additional hours of education and training in the various laser and minor procedures.

Dr. Krauss made a motion to oppose this bill unless amended to require additional hours of education and training in the various laser and minor procedures; s/Dr. Bishop. Motion carried unanimously.

SB 738 (Huff) would provide liability protection for physicians writing standing order prescriptions for epinephrine auto-injectors for school districts, county offices of education, and charter schools. This bill would state that an authorizing physician and surgeon shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for the issuance of a prescription or order pursuant to existing law related to epinephrine auto injectors, unless the physician's and surgeon's issuance constitutes gross negligence or willful or malicious conduct.

The Board supported bills in the past that provide this type of liability protection for physicians, including AB 635 (Ammiano) in 2013. Ms. Simoes suggested the Board support this bill, since it would help school districts obtain standing order prescriptions.

Dr. Lewis made a motion to support this bill; s/Dr. GnanaDev. Motion carried unanimously.

SJR 7 (Pan) is a resolution that urges the Congress and the President of the United States to renew funding for the Health Resources and Services Administration's Teaching Health Center and Primary Care Residency Expansion Graduate Medical Education Programs. Also, it

encourages lifting the freeze on residency positions funded by Medicare to expand physicians supply and improve access to care, and encourages the development of primary care physician training programs in ambulatory, community, and medically underserved sites through new funding methodologies and incentives. This resolution would encourage increased funding and residency programs in California. It may help more physicians to receive residency training and potentially end up practicing in California. This resolution is in line with the Board's adopted policy compendium. Ms. Simoes recommended the Board take a support position on this resolution.

Ms. Wright made a motion to support this resolution; s/Dr. GnanaDev. Motion carried unanimously.

Ms. Kirchmeyer requested the Board return to SB 482. She stated some concerns regarding the original amendment that was voted on and asked that a new amendment be stated to bring some clarity around the Board's vote to ensure that what was discussed and voted on was representative of the Board's will.

Ms. Kirchmeyer stated there were two amendments that the Board wanted added. The first was to put some language and terminology around the completion and acceptance of the CURES program to be sure it is the system that it should be; the second was to add the dispensers back into the bill. Ms. Kirchmeyer had some concerns about having the dispensers as part of the support if amended position of the Board. She asked the Board to move the dispenser piece to something that is encouraged, but not to have it hold up the support position since Pharmacists are not under the Board's jurisdiction.

Dr. Krauss made a motion to support the revised position to be a support if amended with language clarification on CURES readiness; s/Dr. Bishop. Motion carried unanimously.

Agenda Item 6B State of Regulatory Actions

Ms. Simoes referred the Members to page BRD 6B-1 in their Board packet and asked if the Members had any questions. No questions were presented.

Agenda Item 7 Discussion and Possible Action on 2016 Proposed Meeting Dates

Ms. Kirchmeyer referred the Members to page BRD 7-1 in their packet. After receiving notice from a Board Member stating they were unable to meet on the first Thursdays of any month, Ms. Kirchmeyer rearranged some of the meeting dates to try to accommodate the Members request. She asked for a motion to approve May 5-6, 2016; July 28-29, 2016; and October 27-28, 2016 dates and locations.

Ms. Yaroslavsky made a motion to approve those dates and locations; s/Ms. Wright. Motion carried unanimously.

Ms. Kirchmeyer then asked for a second motion to approve the January 21-22, 2016 meeting dates with the understanding there may need to be an interim meeting between the January meeting and the May meeting if necessary.

Dr. Krauss made a motion to approve the January 21-22, 2016 meeting date and location; s/Ms. Yaroslavy. Motion carried. 12 support (Wright absent from vote)

Agenda Item 8 Executive Management Report

Ms. Kirchmeyer stated she would not be going over the Administrative, Enforcement, or Licensing summaries in detail, but did have some items she would like to point out specifically. She noted that as stated in the Enforcement summary, staff is working on decreasing the amount of time it takes to review the complaints that come into the Central Complaint Unit. Without being able to run the workload reports needed, staff was unable to identify the length of time it takes in the complaint unit. Staff was recently able to run a few reports that still need review and verification, but found that it did indicate that time in this unit needs to be a priority. Ms. Romero has been working with managers in that unit to perform case reviews and overtime has been approved to take action on cases. Staff is meeting with a DCA BreEZe expert on Monday to determine if any business process changes can be made to make processing more efficient. Prior to BreEZe, case review had been the lowest it had been in five years, and staff is working to determine the reason behind this increase. Ms. Kirchmeyer stated she would continue to work with Ms. Romero and the managers in the Central Complaint Unit to identify efficiencies and to improve the length of time for case processing.

Ms. Kirchmeyer noted that an individual from the Department of Consumer Affairs (DCA) is also reviewing the Board's application and licensure process, to determine if any changes could be made in that unit as well.

She announced that the Memorandum of Understanding (MOU) with the California Research Bureau (CRB) regarding physician ethnicity is in its final stages to be approved, at which time it will be sent to the CRB for their review and action.

Ms. Kirchmeyer provided a CURES update, stating the new system is scheduled to be released July 1, 2015; however, the streamlined registration process will not be available until August 2015. Even though the streamlined process will not be available until August, physicians will be able to register on-line, but will still need to provide their notary and documents; however, those can be scanned into the system. There will no longer be a mail-in application option available.

Some of the improvements in the system that should be available as of July 1 will be increased speed of the system, searches should now return within seconds, and the system should not crash when an individual queries a significant size report. In addition, users should be able to save searches, physicians will receive alerts when certain criteria is met regarding physician prescriptions, and physicians who have a pain management contract with a patient that does not allow for prescribing by another physician can ask for an alert.

Ms. Kirchmeyer referred the members to page BRD 8B-4, where there was a synopsis on the recent Supreme Court decision titled: *North Carolina State Board of Dental Examiners v. Federal Trade Commission*. The DCA is working with the Governor's Office on evaluating this decision.

No action was needed at this time and Ms. Kirchmeyer stated she would provide updates to the Members as information is received from the DCA.

Ms. Kirchmeyer then provided an update on the coordination with other state agencies regarding the issue of prescribing psychotropic medicine to foster children. The Board recently finalized and signed the data use agreement with the Department of Health Care Services (DHCS) and the Department of Social Services (DSS). The data requested should be received by the Board within the next two weeks. During the process, it was found that the Board would receive de-identified information. Once that information is received, staff will work with a medical consultant to identify specific cases and will then need to work with DSS in order to obtain patient releases to obtain medical records to investigate the case.

She then asked the Members to turn to page BRD 8E-1 through 8E-19. She stated the DHCS and the DSS established a quality improvement work group that worked together to develop guidelines for the use of psychotropic medication with children and youth in foster care. These guidelines have been placed on the Board's website, an email was sent out to all physicians, and staff tweeted about them as well.

Ms. Kirchmeyer asked for a motion to approve the orders following completion of probation and order for license surrendered during probation.

Dr. Lewis made a motion to approve the orders; s/Ms. Yaroslavsky. Motion carried unanimously.

Agenda Item 9 **Update of the Federation of State Medical Boards**

Mr. Serrano Sewell provided a brief update on the Federation of State Medical Boards (FSMB) noting that this year's agenda focused on medical boards and achieving their mission of consumer protection. The meeting provided several forums where Members could learn more about issues concerning medical boards nationwide. The biggest area of discussion included the latest ruling by the Supreme Court, the Interstate Compact, opioid misuse and abuse and what state boards have done, and are doing, to battle this issue along with continuing medical education. Speakers included a health law expert, the new CEO of Accreditation Council for Continuing Medical Education (ACCME) and the Director of White House Office of National Drug Control Policy. On the last day, there were presentations by leaders who focused on physician health. There were also sessions held on working with the team-based care model, accreditation of U.S. and Caribbean medical schools, working with the DEA, working on opioid misuse and abuse. The presentations emphasized how boards can find best practices in order to meet their missions.

Ms. Kirchmeyer congratulated Dr. Lewis for being appointed to the FSMB's Education Committee and Ms. Wright for being appointed to the FSMB's Editorial Committee.

Ms. Kirchmeyer stated that as directed by the Board at the previous Board Meeting, staff went back and summarized comments and questions from the public regarding the Interstate Compact. Once that summary was put together, it was sent to the attorney and staff of the FSMB. Staff received the responses and the responses were included in the packet under tab 9, pages BRD 9A-

1 through 9A-7. Board staff believes responses have addressed the questions. She then provided an update on the compact nationwide. She stated that six states have approved the compact and it is now law in those states. Only one more state is necessary for the commission to be started. Eleven states have legislation introduced and they are going through the process. At this time, it is too far into the Legislative calendar to put the compact into legislation this year. At the last meeting, Board directed staff to work with the legislature to determine if the compact would be of interest in this state. Now that responses to comments have been received, discussions would begin to see if there is any interest for someone to author a bill on the compact.

Julie D'Angelo Fellmeth, Center for Public Interest Law, stated they continue to oppose approval of the FSMB's compact because it has to be accepted as is and cannot be changed even to resolve internal inconsistencies. The fact that its provisions will "supersede" state law and that it superimposes, over all state medical boards, a huge interstate commission that has not yet been created is problematic. The commission will be able to adopt regulations that supersede California laws and this Board will have to rely on other states to perform background checks on licensees that want to practice in California. She feels the biggest reason the Board should not vote to approve this compact occurred on February 25, 2015, when the U.S. Supreme Court issued its decision in the North Carolina Dental Board case.

Lisa McGiffert, Consumer's Union Safe Patient Project noted she agrees with all of the statements that Ms. Fellmeth presented in her comments, but also offered a couple of things to consider if the state were to join into this compact. The first is to insist that the Board's appointee to the commission be a public member. They are concerned about public access to what this commission will be doing, as it will further remove consumers. She urged the Board to work with the FSMB to make sure all of their meetings are publicly accessible across the nation.

Agenda Item 10 **Update on and Implementation of Regulations for Uniform Standards for Substance-Abusing Licensees**

Ms. Kirchmeyer referred the Members to tab 10, pages BRD 10-1 and BRD 10-2. She announced the regulations for the Uniform Standards for Substance-Abusing Licensees were approved by the Office of Administrative Law and will become effective July 1, 2015. She stated that Board staff needs to meet with the Office of Administrative Hearing and the Attorney General's Office to go over the standards and explain the need to adhere to them should they choose one of the conditions listed. These regulations would be posted to the Board's website and interested parties will be notified of the approval along with an article in the Board's July Newsletter.

Julie D'Angelo Fellmeth, Center for Public Interest Law, thanked the Board and staff for their hard and conscientious work on these Uniform Standards.

Lisa McGiffert, Consumers Union Safe Patient Project, thanked the Board and staff for their commitment to getting the regulations done and believes it will make a big difference in the future in protecting consumers.

Agenda Item 11 **Discussion and Possible Action on Midwifery Advisory Council Member Appointments**

Mr. Worden stated the MAC has two positions that are set to expire June 30, 2015. The Board advertised those positions; one as a licensed midwife position and the other as a public member. At the March 26, 2015 MAC meeting, the Board's Licensing Manager presented three application for the midwife position and six applications for the public member position. The MAC members voted to recommend to the Board the reappointment of Ms. Carrie Sparrevohn for the licensed midwife position and Barbara Yaroslavsky for the public member position on the MAC.

Mr. Worden asked for a motion for the reappointment of Ms. Sparrevohn to the licensed midwife position on the MAC.

Dr. Levine made a motion to reappoint Ms. Sparrevohn to the licensed midwife position on the MAC; s/Ms. Yaroslavsky. Motion carried unanimously.

Mr. Worden asked for a motion for the reappointment of Barbara Yaroslavsky to the public member position on the MAC.

Dr. Lewis made a motion to reappoint Ms. Yaroslavsky to the public member position on the MAC; s/Dr. Bholat. Motion carried unanimously.

Agenda Item 12 **Update and Possible Action on Recommendations from the Midwifery Advisory Council Meeting**

Ms. Sparrevohn began by thanking the Board for her reappointment to the MAC. She noted that her report was in the Board packet for review, but brought one particular item to the Members attention that is an important issue for Licensed Midwives (LM) at this time, which is the creation of regulations dictated by AB 1308. Most importantly is to create a list of conditions for which an LM must refer a client to a physician for evaluation. This regulation is currently stalled over the issue of whether a history of prior cesarean should be on the list. She asked the interested parties to continue to work on a compromise to this impasse.

Ms. Sparrevohn then updated the Board on a national workgroup related to midwifery that she participated in a couple of weeks ago; the United States Midwifery Education Regulation and Association workgroup. It is comprised of seven U.S. national midwifery organizations. This is the third year they have met and the goal of this workgroup is to advance the vision of expanding access to high quality midwifery care and physiological birth for all women in all birth settings in the U.S. The American Congress of Obstetricians and Gynecologists (ACOG) has reported that the U.S. will experience an 8,000-obstetrician shortage by the year 2020. The U.S. rates sixtieth worldwide in maternal mortality behind even low resource nations such as Cuba. She asked the Board to direct the MAC members to create a task force that could look at ways to improve and increase midwifery-training opportunities in California, and make recommendations to improve both consultation with and transfer to physicians from midwives when necessary.

Ms. Sparrevohn asked for a motion to approve the following agenda items for the next MAC meeting: a task force update on the LM annual report data collection tool, an update on

continuing regulatory efforts required by AB 1308, an update on midwife assistant legislation, an update and approval of changes in the LM annual report, an update on the challenge mechanism, and a presentation by Diane Holzer on Home Birth Summit recommendations regarding best practices for home to hospital transfer by midwives.

Ms. Yaroslavsky made a motion to approve the agenda items for the next MAC meeting; s/Dr. Levine. Motion carried unanimously.

Jennifer Kamel, spoke in regard to the impact requiring women seeking out-of-hospital vaginal birth after C-section (VBAC) to obtain physician approval. This proves problematic because very few physicians, if any, would be willing to sign off on a home VBAC due to liability concerns. This would virtually cut off VBAC to many women throughout the state since 44% of hospitals ban VBAC and mandate repeat cesareans despite The American Congress of Obstetricians and Gynecologists (ACOG) and the National Institute of Health's (NIH) assurance that VBAC is a safe, reasonable, and appropriate option for most women. In light of the recommendations made by ACOG and NIH, and the realities of increasing morbidity rates in the State of California due to repeat caesarean sections, she feels the objective should be making VBAC more accessible, not less.

Shannon Smith Crowley, ACOG, stated the legislative regulation language was carefully crafted while working with the California Association of Midwives to allow for the home VBAC option, which is something ACOG did not approve of, but they want to make sure women have choices. The law requires a woman to have a physician consult for certain conditions, before having a home birth. She is not confident that an agreement can be reached on VBACS short of legislation.

Agenda Item 17 Update from the Department of Consumer Affairs

Ms. Lally, Deputy Director of Boards and Bureaus, DCA began by congratulating the Board's two newest members, Dr. Hawkins and Dr. Bholat.

Ms. Lally then announced that by a vote of 4-0, Mr. Awet Kidane, DCA Director, was confirmed by the Senate Rules Committee. The Committee's action advances Director Kidane's confirmation to the Senate floor for final approval.

She reminded the Members of the required training that is expected of them as appointees. She also reminded the newest Members of training, and forms that are required as new appointees. She stated that the current year 2015 is a mandatory year for sexual harassment training and even if one had taken it last year, it needs to be taken again this year.

Ms. Lally gave a brief BreEZe update noting that the Joint Legislative Budget Committee approved the DCA's Section 11 request for contract amendments to the BreEZe project. With this approval, the project will conclude after the launch of release two. The DCA will address the needs of the remaining 19 Boards and Bureaus, not on the BreEZe system once release two is launched, which is expected to be early next year. After the launch of release two, the DCA will

conduct a cost benefit analysis to ensure that the BreEZe system is the most cost effective solution for the remaining Boards and Bureaus.

The DCA remains focused on assuring that the needs of the release one boards are being met and that the launch of release two is very successful. She stated examples of their commitment to release one and release two are the enforcement reports. The DCA and Board staff have worked together to develop enforcement reports. The first of these reports will be the performance measure reports, and should be available by the end of May 2015. The remaining three reports should be ready at the end of June 2015. She stated that one of the DCA's primary concerns has been to make sure that these reports are complete and accurate. After the time and efforts invested by the DCA and Board staff, they are confident that the goals have been achieved. DCA is also working with the boards, to track licensing workloads.

Ms. Lally gave an update on how the recent U.S. Supreme Court decision would affect the DCA's boards and bureaus. She stated the case involved whether or not the North Carolina Dental Board was immune from Federal Antitrust laws. The court concluded that the North Carolina State Board of Dental Examiners could not be allowed to regulate their own markets free from antitrust accountability. She assured the Board that DCA's legal office is proactively discussing the decision, the impact, and the consequences of the application of the decision with respect to the current composition of DCA's boards. It is carefully deliberating with the DCA's Agency as well as the Governor's Office and the Attorney General's (AG) Office on the direction the DCA would take. Once the direction is concluded, DCA's legal counsel will let the boards know the outcome.

Agenda Item 14 **Update of Physician Assistant Board**

Dr. Bishop noted at the February Physician Assistant Board (PAB) meeting, Chairman Sachs announced that there were two new California PA education programs, one at Marshall B. Ketchum University in Fullerton, and one at California Baptist University in Riverside. With respect to California Code of Regulations, Title 16, citations for unlicensed practice, the PAB's legal counsel stated currently this regulation restricts the Board's Executive Officer to issue citations and orders of abatement and levy fines only in the case of a PA who is practicing without a delinquent license. As currently drafted, the Executive Officer is prevented from issuing citations and fines to those who have never been licensed, and holding themselves out as PAs. Although the citation and fine are a type of civil action, the issuance of a fine would not preclude the Board from pursuing criminal charges for unlicensed practice of medicine. Based on legal counsel's recommendation, the PAB voted to initiate the formal rulemaking process to amend Title 16 to allow the PAB's Executive Officer to issue citations and fines to unlicensed individuals.

Dr. Bishop stated a regulatory hearing was held on February 9, 2015, concerning the proposed language for guidelines for imposing uniform standards regarding substance abusing healing arts licensees. The discussion was to amend or adopt changes to Title 16 of California Code of Regulations, disciplinary guidelines. The PAB's legal counsel presented a summary of additional amendments to the Manual of Disciplinary Guidelines and Model of Disciplinary Orders that she believes would further enhance the document. The PAB voted to approve the additional amendments and directed staff to take all steps necessary to complete the rulemaking process, including preparing modified text and an addendum to the Initial Statement of Reasons for an

additional 15-day comment period. The comment period began on April 27, 2015 and ends May 13, 2015.

The PAB reviewed and adopted the newly revised addition of the PAB's policy manual. The revised manual included a newly adopted professional report requirement section. Additionally, the manual was updated to include technical changes.

Dr. Bishop noted PAB continues an ongoing discussion about the accreditation process for PA training programs. The PAB is concerned the current national accreditation process may not be adequately addressing the need to increase the number of PA training programs that will be needed to meet the health care provider shortage. The Accreditation Review Commission on Education for the Physician Assistant (ARCPA) is no longer an accrediting associate degree physician-training program, which is unfortunate as two of the programs in California are being shut down. The PAB is continuing to investigate what can be done to look for other accrediting bodies to help prevent a shortage of PAs in the state.

Dr. Bishop stated that the implementation of Business and Professions Code section 3518, which mandates personal data collection from PAs, and was effective January 1, 2015, will be discussed at the May PAB meeting. It requires the PAB, the Board of Registered Nursing (BRN), the Board of Vocational Nursing and Psychiatric Technicians, and the Respiratory Care Board to collect data for the OSHPD. The PAB is working with legal counsel, the DCA and other boards to implement the provisions of this bill.

Dr. Bishop then thanked Ms. Kirchmeyer and staff for their assistance to the PAB. The next PAB meeting is scheduled for August 3, 2015.

Mr. Serrano Sewell adjourned the meeting at 5:10 pm.

Friday, May 8, 2015

Members Present:

David Serrano Sewell, J.D., President
Dev GnanaDev, M.D., Vice President
Denise Pines, Secretary
Michelle Bholat, M.D.
Michael Bishop, M.D.
Randy Hawkins, M.D.
Howard Krauss, M.D.
Sharon Levine, M.D.
Ronald Lewis, M.D.
Gerrie Schipske, R.N.P., J.D.,
Jamie Wright, Esq.
Barbara Yaroslavsky
Felix Yip, M.D.

Members Absent:

Elwood Lui

Staff Present:

Liz Amaral, Deputy Director
Irene Bisson, Inspector III
Sandra Borja, Inspector II
Dianne Dobbs, Department of Consumer Affairs, Legal Counsel
Steven Froberg, Inspector I
Ruben Garcia, Inspector II
Kimberly Kirchmeyer, Executive Director
Armando Melendez, Business Services Officer
Cajetan Onu, Inspector I
Dino Pierini, Business Services Officer
Regina Rao, Associate Governmental Program Analyst
Elizabeth Rojas, Business Services Officer
Paulette Romero, Enforcement Program Manager
Jennifer Simoes, Chief of Legislation
Lisa Toof, Administrative Assistant II
Rachel Wacholz-LaSota, Inspector III
Kerrie Webb, Legal Counsel
Curt Worden, Chief of Licensing

Members of the Audience:

Teresa Anderson, Academy of Physician Assistants
Larry Bennett, Investigator
Ken Buscarino, Investigator, Health Quality Investigation Unit
Gloria Castro, Senior Assistant Attorney General's Office
Yvonne Choong, California Medical Association
Genevieve Clavreul
Zennie Coughlin, Kaiser Permanente
Julie D'Angelo Fellmeth, Center for Public Interest Law
Karen Ehrlich, LM, Midwifery Advisory Council
Julie Eschot, Supervising Investigator, Department of Consumer Affairs
Lou Galiano, Videographer, Department of Consumer Affairs
Mike Gomez, Deputy Director, Department of Consumer Affairs
Virginia Herold, Board of Pharmacy
Marion Hollingsworth, Consumer's Union
Khadijah Lang, M.D., Golden State Medical Association
Bernard Lim, Investigator, Health Quality Investigation Unit
Liz McCaman, Board of Pharmacy
Lisa McGiffert, Consumer's Union
Albert Medina, Investigator, Department of Consumer Affairs
Caroline Montgomery, Health Quality Investigation Unit
Ty Moss, Consumer's Union
Robert Pulido, Supervising Investigator, Health Quality Investigation Unit

Sylvia Salcedo, Investigator, Department of Consumer Affairs
 Jack Sun, Investigator, Department of Consumer Affairs
 Laura Sweet, Deputy Chief, Enforcement, Health Quality Investigation Unit
 John Thropay, Beverly Oncology
 Stan Weissner, Board of Pharmacy

Agenda Item 18 **Call to Order/Roll Call**

Mr. Serrano Sewell called the meeting of the Medical Board of California (Board) to order on May 8, 2015 at 9:06 a.m. A quorum was present and due notice was provided to all interested parties.

Closed Session

Agenda Item 19 **Pursuant to Government Code Section 11126(a)(1)**

The Board went into closed session to conduct the confirmation of the evaluation of the Executive Director.

Mr. Serrano Sewell reconvened the meeting stating the Board confirmed the salary for the Executive Director.

Agenda Item 20 **Public Comments on Items Not on the Agenda**

Genevieve Clavreul asked the Board what kind of responsibility a physician has in a situation where a surgery is continuously postponed for over three years and what can be done about it.

Mr. Serrano Sewell stated if there is a specific issue with a physician, a complaint should be filed with the Board.

Agenda Item 13 **Discussion and Possible Action on Proposed Regulations Updating Disclaimers and Explanatory Information Applicable to Internet Postings**

Ms. Romero directed the Members to pages BRD 13-1 through 13-6 of the packets. She stated those pages refer to California Code of Regulations (CCR), section 1355.35. CCR section 1355.35(a) lists disclaimers and explanatory information the Board may provide with public disclosure information released on the Internet. Amendments to this section are needed to add disclaimers and explanatory information regarding court orders, misdemeanor convictions, licenses issued with the public letter of reprimand, and probationary licenses. Section 1355.35(a)(2) only requires an amendment as it directs the public to contact the Board's central file room at its previous address on Howe Avenue in Sacramento, if they wish to obtain copies of public documents. The amendment will consist of changing the address to the central file room on Evergreen Street in Sacramento. She noted the Board has received communications from physician's attorneys regarding information found on the Board's website related to disciplinary actions. As such, it was found that court ordered public disclosures screen types were needed to

reflect accurate practice restrictions by the courts. Ms. Romero noted that amendments to the chart found in section 1355.35(c) are also necessary. The chart as shown in the Board packet includes descriptions of the license statuses, which is displayed on the website. The amendments would add the status code description and definition for the 150-day temporary license for a family support issue and the status code description and definition for family support suspension.

Ms. Romero asked the Board for a motion to direct staff to begin preparation of the necessary regulatory documents for amending CCR sections 1355.35, 1355.35(a), 1355.35(a)(2) and 1355.35(c) and hold a regulatory hearing at the next meeting.

Dr. Lewis made a motion to direct staff to prepare necessary documents needed for amending sections 1355.35, 1355.35(a), 1355.35(a)(2) and 1355.35(c) and hold a regulatory hearing; s/Ms. Yaroslavsky.

Yvonne Choong, CMA, stated one omission they felt the Board should look at when preparing the language for the amendments are suspensions for failing to pay taxes. Ms. Kirchmeyer stated those changes are not needed at this time based upon the way they are posted. The amendments shown in the packets do not include physicians who fail to pay their income tax and suspensions related to that.

Motion carried unanimously

Agenda Item 15 Update of the Health Professions Education Foundation

Ms. Yaroslavsky stated the Health Professions Education Foundation (HPEF) met in February and is moving forward to expand the ability for the HPEF to give more loan repayment and scholarship dollars to those going into the health profession. The Stephen Thompson Loan Repayment Program (STLRP) has endowed \$36.6 million dollars. During the current cycle, the HPEF was able to fund 61 of the 108 applicants and during a new secondary cycle, in which the California Endowment will be funding another \$3.5 million dollars, will affect another 30 physicians. The application process begins May 18 and runs through the summer.

Dr. Levine congratulated and thanked Ms. Yaroslavsky and Dr. Yip for their work that has gone into this program as it has had a tremendous impact on many young people.

Dr. Lang, Golden State Medical Association, stated that on behalf of the president and physician members of Charles Drew Medical Society and Golden State Medical Association, she welcomed and congratulated the Board on the two newest Board Members, Dr. Hawkins, and Dr. Bholat.

Agenda Item 16 Update on Prescribing Task Force

Ms. Yaroslavsky stated that on April 15, 2015, the Prescribing Task Force held another meeting. The purpose of this meeting was to discuss best practices and look for additional ideas to reduce opioid misuse and abuse. The meeting began with a presentation by a man who had become

addicted to narcotics after an injury at 17 years old. This presentation provided a perspective on issues that he battled and how easy it was for him to receive medications. He spoke about the need for not only appropriate prescribing and education of physicians and patients, but also the need for treatment programs to treat the thousands of individuals who are now addicted to prescription drugs. His story helped the audience to understand why it is so important to do all that can be done to eliminate the inappropriate prescribing of opioids.

Dr. Bishop continued the update stating the task force also heard from Julie Nagasako from the California Department Public Health (CDPH) on the work being done by its prescription opioid misuse and overdose prevention workgroup.

Ms. Yaroslavsky noted the task force also heard from Dr. Das, the Executive Medical Director of the Division of Workers Compensation (DWC). Dr. Das spoke about the DWC's new guidelines that are going through the process of review and completion. It was discussed how important it was for the DWC's guidelines to not conflict with the Board's new guidelines and that everyone needs to work together.

Dr. Bishop stated the task force received a number of good ideas and discovered that much work by multiple parties is already being done in respect to this issue. The task force will continue to put together best practices that will then be placed into the Board's Newsletter and on its website.

Dr. Levine recommended putting together another pain summit to report on progress since the work of this task force began.

Ms. Kirchmeyer agreed and stated this would be a future project.

Virginia Herold, Executive Director, Board of Pharmacy, (BOP) stated the BOP pulled CURES reports to see what the reclassification of hydrocodone meant in terms of the number of prescriptions written during the same period in 2013/2014 and 2014/2015 and found that hydrocodone prescriptions dropped 20%. That time frame included the period where the DEA still allowed refills. That shows that there has been an impact just out of the reclassification.

Genevieve Clavreul stated her concerns about the current CURES system.

Dr. Lang expressed her concerns about how pharmacies in certain areas such as the inner cities will not fill pain medication prescriptions even for those who legitimately need them, have no history of drug use or abuse, and wanted the Board to be aware the CURES system is affecting certain consumers in certain areas.

Agenda Item 21

REGULATIONS - PUBLIC HEARING – Continuing Medical Education (CME). Amendment to Sections 1337 and 1338 of Title 16, California Code of Regulations. This proposal would allow approved specialty board CME used for Maintenance of Certification to meet the CME requirements for renewal of a physician's and surgeon's certificate.

Mr. Serrano Sewell stated this is the time and place set by the Board to conduct a public hearing on the proposed regulation to amend Section 1337 and 1338 of Title 16 of the CCR as described in the notice published in the California Regulatory Notice Register and were sent by mail to those on the Board's mailing list.

He noted the Board was seeking to amend the regulation related to continuing medical education (CME). These proposed amendments would authorize the Board to accept Maintenance of Certification (MOC) CME as meeting the Board's CME requirements for renewal of physician licenses. Further, the proposed amendments would allow the Board to accept MOC CME proof directly from approved specialty boards, thereby streamlining the process for physicians complying with an audit inquiry.

Mr. Serrano Sewell noted the date as Friday, May 8, 2015, and the time as 9:43 a.m., and stated that the purpose of the hearing was to receive oral testimony concerning the regulatory proposals described in the notice.

He announced that all written testimony had to have been submitted by the deadline of April 20, 2015. One written comment was sent in support and one letter of opposition was received.

Dr. Levine stated she needed to recuse herself from this discussion as she was recently appointed to the Board of the Institute for Medical Quality (IMQ) and this issue is one of interest to them.

Yvonne Choong, CMA, testified by stating CMA submitted written comments that are included in the Members' packets, but briefly summarized those comments. She noted that CMA is supportive of making high quality CME available to physicians, and they support facilitating the process by which physicians can complete CME hours that meet the Board's licensing requirement. However, they have concerns that the regulations as proposed could result in physicians participating in CME programs that do not meet accepted standards for quality.

Mr. Serrano Sewell stated since no one else requested to speak, the hearing concerning regulations governing MOC CME was closed at 9:50 a.m.

Ms. Webb stated this proposed amendment came about following a presentation from the American Board of Medical Specialties (ABMS). The options for the Board in light of the testimony received are to either: proceed as is with the current language in the rulemaking file; withdraw the rulemaking file indefinitely, and if the issue comes up again, it could be reintroduced; or the Board can direct staff to re-notice the file with additional information to address the concerns that CMA expressed in their written argument. Ms. Webb stated that the numbers provided by staff were estimates, which was all they had to go on, since there are no solid numbers related to what the cost savings to physicians will be or what the cost to CME providers would be if this amendment were to proceed. She stated that those are the three options for the Board to consider and staff would need a motion and the Board's direction on how they would like staff to proceed.

Dr. Lewis stated that he is to understand from CMA that this program has been pulled back and asked Ms. Webb if it is maybe too premature to proceed on this, and if the Board should hold off on making a decision until the American Board of Internal Medicine (ABIM) rolls out a program they believe is meaningful and can be reviewed properly.

Dr. GnanaDev stated that the ABIM is the only one who feels that there are issues and got this program wrong. Surgery Boards and other Boards are doing MOC.

Dr. GnanaDev made a motion to re-notice the file requesting additional clarification on the costs of the regulation in the Initial Statement of Reasons; s/Ms. Schipske. Motion carried. (Dr. Levine recused)

Ms. Webb asked for a motion to dismiss CMA's proposed amendment to require MOC CME to be accredited by those organizations listed in section 1337(a)(1) and (a)(2) or certified by the American Medical Association Physician's Recognition award category 1TM ACOG, or American Osteopathic Association Category 1A.

Ms. Yaroslavsky made a motion for the Board to reject CMA's proposed amendment; s/Dr. GnanaDev. Motion carried. (Dr. Levine recused)

Ms. Webb then stated that if the Board re-notices the regulatory package with economic information and there are no negative comments received, she asked for a motion to approve staff to make any non-substantive changes to the rulemaking file and to proceed with presenting it to the Office of Administrative Law (OAL) for approval.

Dr. Lewis made a motion to allow staff to proceed with presenting the rulemaking file to OAL if no negative comments are received; s/Ms. Yaroslavsky. Motion carried. 11 Support, 1 Oppose (Schipske) (Dr. Levine recused)

Agenda Item 22 Discussion and Possible Action on Interim Suspension Orders

Mr. Serrano Sewell stated that he had requested this agenda item to be added for discussion today. During Legislative Meetings and in meetings with consumer groups there are concerns on the length of time it takes to issue an Interim Suspension Order (ISO) if an individual is deemed a danger to the public. He had asked staff to look into this and to begin the discussion process. He would like the Board to consider adopting a resolution indicating how important these suspension orders are in protecting the public.

Ms. Kirchmeyer referred the Members' to pages BRD 22-1 and 2 in their packets. She stated they would find a memo that outlined the process for obtaining ISOs. This process allows the Board to either suspend or put restrictions on a physician's license prior to disciplinary action being taken for cases where a physician is an imminent danger to the public. However, an issue that is run into is the fact that an Accusation needs to be filed within 30 days of the issuance so the investigation needs to be complete. She noted that Mr. Gomez, Ms. Sweet, and Ms. Castro will speak to their specific roles in the issuance of ISOS further as stated in the memo, ISOS cases will be reviewed to evaluate what factors resulted in the ISOS being issued or denied, and the parties will work together to determine ways to expedite these cases.

Ms. Sweet stated in preparation for this meeting, she reviewed over 10 cases that resulted in ISOs that took longer than one year between assignment and filing. The majority of these cases involved mental or physical impairment, including addiction issues, and overprescribing. Several of the cases involved prosecutions by the federal government. In many of those instances a Penal

Code section 23 (PC 23) was not able to be pursued, which is another mechanism to limit a physician's practice, because they were federal and not state matters. PC 23s can only be sought pursuant to state law. Another issue is that once an ISO is filed, because it is considered extraordinary relief, the AG's Office has to be prepared to file an accusation within 30 days and have a hearing within another 30 days. In cases where a federal conviction is pending, it puts the Board in a position of having to wait. For purposes of what constitutes a record of conviction in federal courts, staff is required to obtain the sentencing documents, which can often take up to one year in the federal system. Ms. Sweet and Ms. Castro met to discuss these issues and will be working together to see if there are any alternatives to proceed with these cases absent the sentencing documents supporting a conviction. Another issue, that has already been addressed, is the problem of when the DEA or another agency was jointly working an overprescribing case with staff. In 2013, the process was changed to where the Board would no longer stand down at the request of an allied law enforcement agency, unless the practitioner's DEA license could be suspended or there were assurances that the case would not languish. Another issue in 2013 had to do with medical records. She noted many overprescribing cases are bogged down because of subpoena enforcement actions, which can add one year to a case. Because prescribing without a legitimate medical purpose is a crime, until proven otherwise, all allegations of overprescribing are also handled in the criminal arena. Therefore, when probable cause is established that conduct is criminal, staff can proceed with a search warrant, rather than engaging the subpoena process, which is significantly faster.

Ms. Sweet noted in other cases more likely to result in the issuance of an ISO, mental and physical impairment cases, several areas have been identified where time frames can be improved. She and Ms. Castro will be working with respective staff to expedite the handling of these cases. Ms. Sweet stated that for the Health Quality Investigation Unit (HQIU), she is prepared to recommend some policy changes in order to be sure investigators are making contact with subjects within a very short time frame when allegations of impairment are set forth. Often times an allegation of mental or physical impairment accompanies a quality of care allegation and the investigator has been directed to work both issues and the AG's Office does not move forward until the case is completed. She and Ms. Castro agreed that from this point forward, the mental and/or physical impairment would be ruled out without waiting for the quality of care component to be resolved. This step would enable them to request the physician be examined, and if they refuse, move forward with a petition to compel an examination if evidence supported. These steps can usually be accomplished within 60 days.

Ms. Sweet noted that there is a huge learning opportunity for investigators and attorneys in merely reviewing these cases and doing postmortem on the investigation and prosecution. It has also been decided that every case involving the request for an ISO be reviewed, whether it is issued or denied.

Ms. Castro added that discussions should also include a better assessment on how to measure how long an ISO took and to look at results. She stated the most serious cases are filed as ex-parte ISOs.

Ms. Castro feels cases that are not successful in obtaining ISOs should be reviewed. She stated it is important to note a case cannot always be identified as an ISO until the case hits a certain part of the process. There needs to be some cooperation between the AG's Office and HQIU to

elevate once routine cases to urgent cases when grounds for an ISO are identified. She feels that supervisors should start attending ISO hearings starting immediately and through October.

Dr. Lewis made a motion to allow the Executive Director to work with the AG's Office and DCA to identify strategies to expedite cases involving a physician who, if permitted to continue to practice, will endanger the public and to issue an ISO as expeditiously as possible, and also to request a report on these strategies at the October 2015 Board Meeting; s/Ms. Yaroslavsky.

Yvonne Choong, CMA, applauded the Board for looking into this issue more closely as they have had issues in the past trying to get information on ISOs as well. She stated CMA would like to see the Board look into situations where the Board can consider using other methods of immediate suspension other than ISOs. They would also like to see instances where ISOs should not have been sought and perhaps those resources could have been put to pursue cases that are more viable. In their research, they have found it difficult to get a breakdown of case status, number of days it has been worked on, etc.

Motion carried unanimously.

Agenda Item 23 Investigation and Vertical Enforcement Program Report

Mr. Gomez stated that HQIU is into its tenth month of the transition and, with the exception of staffing issues, their operations are starting to stabilize. He noted they continue to have challenges that are cyclical with respect to recruitment and retention in the HQIU. The unit currently has 13 vacancies and is projecting additional vacancies. They are in competition with agencies that can offer higher paying positions. He noted, in the last four months, HQIU has focused their recruitment efforts in three areas. They are looking for people who might be interested in starting a second career. They have also looked in academies that have people who are not affiliated with any agency, as well as looking at colleges who have criminal justice programs to recruit those students. He noted they have had some success in getting their policies and procedures into place, but still have some instability in that respect.

He announced they had recently promoted Ken Buscarino, who is a retired Los Angeles Police Department Supervisor, effective May 1, 2015.

He also announced that the DCA and AG's Office have completed the Vertical Enforcement (VE) Protocol Manual draft. It is being reviewed by the AG and they are looking at an implementation date of July 1, 2015.

Ms. Laura Sweet gave a brief presentation and update of statistics of the HQIU including open case age averages, but asked that the Board realize these numbers cannot be verified due to the BreEZe system still being unable to run the reports needed.

Members requested Mr. Serrano Sewell meet with DCA Director Awet Kidane to discuss the transition and the problems with retention.

Agenda Item 24 **Update from the Attorney General's Office**

Ms. Castro announced the VE Protocol Manual draft is being reviewed by the AG and they hope to have it implemented on July 1, 2015. She had discussions with Ms. Sweet about rolling out the manual to HQIU staff in tandem, city by city. She and Mr. Gomez have been discussing the different types of training issues that will need to be done.

The Cloud continues as a pilot project in the Sacramento district office and the headquarters of the Board. Due to BreEZe issues, there have been some delays in the technology contracting process. The hope of the Cloud is to eliminate days of transporting documents between offices and to provide a real time review of cases.

The AG's Office recently promoted former Deputy Attorney General (DAG) and lead prosecutor Alexander Alvarez the supervising DAG in San Diego. They also have two new staff members, Gregory Chambers and Rebecca Smith.

Agenda Item 25 **Discussion and Possible Action on the Adoption of Joint Protocol with the Board of Pharmacy**

Ms. Kirchmeyer referred the Members to pages BRD 25-1 through 25-7. She stated at the January Board meeting, the Members reviewed and approved a protocol under which pharmacists provide Naloxone Hydrochloride to patients or others who may need to reverse an opioid overdose. The BOP's emergency regulations regarding this protocol went into effect April 10, 2015. The BOP is now promulgating this protocol. Since the last meeting, the BOP has made a few changes to the protocol the Board had approved. Therefore, the Board must approve these additional changes so the BOP can continue the regulatory process. These changes were recently approved by the BOP on April 22, 2015, and the specific changes can be found in the Board packet as stated.

Dr. Lewis made a motion to approve the additional changes made to the BOP protocol regarding Naloxone Hydrochloride; s/Ms. Yaroslavsky. Motion carried. (Dr. Krauss abstained)

Agenda Item 26 **Discussion and Possible Action on Approval of Multiskilled Medical Certifications Institute, Inc. as a Medical Assistant Certifying Organization**

Mr. Worden referred the Members to pages BRD 26-1 through 26-4 in the Board packets. He stated that the Multiskilled Medical Certifications Institute, Inc. (MMCI) applied to the Board in September 2014 to be approved as a medical assistant certifying agency. The authority for that is through CCR section 1366.31. The application has been reviewed by staff, and it was concluded that the MMCI meets the regulatory requirements in order to be approved as a medical assistant certifying organization.

Dr. Lewis made a motion to approved the MMCI as a certifying agency with a retroactive date back to the date of application received September 2014; s/Dr. Bishop. Motion carried unanimously.

Agenda Item 27 **Discussion and Possible Action on Proposed Regulations to Add the Requirement for the Examination Scores**

Mr. Worden referred the Members to pages BRD 27-1 through 27-3 in the Board packets. He stated Business and Professions Code section 2177(a) states the passing score for each step of a required physician and surgeon licensing examination is established by the Board. The Board has enacted a resolution on this issue on a yearly basis. The proposed regulation, if approved, would provide clarity regarding the minimum passing score for each required licensing examination step and would eliminate the need for a yearly resolution.

Mr. Worden asked for a motion to authorize staff to proceed with the new regulation as proposed on page BRD 27-3 that would specify the passing exam be set by the individuals who create the exams.

Ms. Wright made a motion to authorize staff to proceed with new regulations; s/Ms. Yaroslavsky. Motion carried unanimously.

Agenda Item 28 **Discussion and Possible Action on Proposed Regulations to Update the Outpatient Surgery Settings Standards**

Mr. Worden stated this proposal would allow staff to make amendments to CCR section 1313.4 to match the new changes made to the statutes in Health and Safety Code section 1248.15 and 1248.35. He asked for a motion for the Board to authorize staff to proceed with preparing the necessary regulatory documents to amend CCR section 1314.4 and hold a regulatory hearing.

Ms. Wright made a motion to authorize staff to proceed with the rulemaking process as directed; s/Ms. Yaroslavsky. Motion carried unanimously.

Agenda Item 4 **Board Member Communications with Interested Parties**

Mr. Serrano Sewell stated he and Dr. GnanaDev had a breakfast meeting with representatives from CMA to discuss a physician health program. He also met earlier in the year with Consumer Watchdog to discuss the consumer protection efforts including changes to the CURES program.

Dr. Bishop met with the California Society of Anesthesiologists about AB 890 and representatives from CAPA on SB 337. He also met with Speaker Atkins last week as a meet and greet.

Dr. Levine announced her appointment to the Board of IMQ and stated she had attended her first Board meeting for them where they discussed the CME regulations, in which she recused herself from the discussion.

Agenda Item 29**Agenda Items for July 2015 Meeting in the Bay Area**

Mr. Serrano Sewell stated a couple of items that could be included in the next Board agenda are a regulatory hearing for disciplinary guidelines, a regulatory hearing on the Board's disclaimers on explanatory information, and a regulatory hearing on outpatient surgery settings standards; a presentation by Janet Coffman from the University of California, San Francisco on their study with the Board on physician participation on medi-cal; a presentation by the FSMB; and a presentation physician health programs.

Ms. Wright requested an update for the Licensing Committee and an update on the ethnicity study.

Ms. Schipske requested an update on the affordable care act, particularly on the mandate for compliance and ethics programs within practices. She also requested an agenda item on physicians notifying patients they are on probation.

Dr. Krauss requested an agenda item on achieving and maintaining uniform standards of care, inviting the FSMB visitor to discuss that issue.

Julie D'Angelo Fellmeth, Center for Public Interest Law, recommended the Board seek from Ms. Webb an explanation of the U.S. Supreme Court decision in the North Carolina Dental Board case and its impact on the Board.

Agenda Item 30**Adjournment**

Mr. Serrano Sewell adjourned the meeting at 11:33 a.m.

 David Serrano Sewell, President

 Date

 Denise Pines, Secretary

 Date

 Kimberly Kirchmeyer, Executive Director

 Date

The full meeting can be viewed at http://www.mbc.ca.gov/About_Us/Meetings/2015/