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Governor Edmund G. Brown Jr., State of California | Business, Consumer Services and Housing Agency | Department of Consumer Affairs

**Hilton Los Angeles Airport
 5711 West Century Boulevard
 Los Angeles, CA 90045
 April 19 – 20, 2018**

MEETING MINUTES

Thursday, April 19, 2018

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

Members Present:

Dev GnanaDev, M.D., President
 Michelle Anne Bholat, M.D.
 Randy W. Hawkins, M.D.
 Howard R. Krauss, M.D.
 Kristina D. Lawson, J.D.
 Sharon Levine, M.D.
 Ronald H. Lewis, M.D., Secretary
 Denise Pines, Vice President
 Brenda Sutton-Wills, J.D.
 David Warmoth
 Felix C. Yip, M.D.

Members Absent:

Jamie Wright, J.D.

Staff Present:

April Alameda, Chief of Licensing
 Diane Curtis, Information Technology Supervisor I
 Mary Kathryn Cruz Jones, Associate Governmental Program Analyst
 Christina Delp, Chief of Enforcement
 Kimberly Kirchmeyer, Executive Director
 Christine Lally, Deputy Director
 Regina Rao, Associate Governmental Program Analyst
 Elizabeth Rojas, Staff Services Analyst
 Jennifer Simoes, Chief of Legislation
 Kevin Valone, Staff Services Analyst
 Carlos Villatoro, Public Information Manager
 Kerrie Webb, Staff Counsel

Members of the Audience:

Carmen Aguilera-Marquez, Supervising Investigator, Health Quality Investigation Unit,
 Department of Consumer Affairs

Yama Afshar, Arizona College of Osteopathic Medicine
Megan Allred, California Medical Association
Judith Alvarado, Supervising Deputy Attorney General, Attorney General's Office
Eric Andrist, 4patientsafety.org
Carmen Balber, Executive Director of Consumer Watchdog
Alan Blatt, NiaMedic
Jonathan Bloomfield, Adapt Pharma
Griselle Cabrera Albaugh, M.D.
Neha Chiruruolu, Arizona College of Osteopathic Medicine
Katie Cho, Arizona College of Osteopathic Medicine
Melody Collins, Investigator, Health Quality Investigation Unit, Department of Consumer Affairs
Wendy Conner
Zennie Coughlin, Kaiser Permanente
Julie D'Angelo Fellmeth, Center for Public Interest Law
Max Degtyar, Investigator, Health Quality Investigation Unit, Department of Consumer Affairs
Julianne Evergreen
Aracely Garcia, Investigator, Health Quality Investigation Unit, Department of Consumer Affairs
Karie H.
Ed Hollingsworth
Marian Hollingsworth, Patient Safety Action Network and Medical Board Round Table
Charles Jun, Arizona College of Osteopathic Medicine
Clayton Kazan, M.D., Los Angeles County Fire Department
Levon Khacheryan, Arizona College of Osteopathic Medicine
Saskia Kim, California Nurses Association
Susan Lauren
Bertina Loui, Arizona College of Osteopathic Medicine
Andre Loyola, Arizona College of Osteopathic Medicine
Lisa Mackey, Victim's Advocate
Lisa Matsubara, California Medical Association
Jaclyn Matsura, Arizona College of Osteopathic Medicine
Michelle Monseratt-Ramos, Consumers Union Safe Patient Project
Matt Neir, Arizona College of Osteopathic Medicine
Kathleen Nicholls, Deputy Chief, Health Quality Investigation Unit, Department of Consumer Affairs
Derek Pan, Arizona College of Osteopathic Medicine
Edward Rudner, Arizona College of Osteopathic Medicine
Tammy Smick
Tim Smick
Shannon Smith-Bernardin, Ph.D., R.N., C.N.L., Director of Clinical Services, Los Angeles Department of Health Services, Housing for Health
Carrie Sparrevohn, L.M., Midwifery Advisory Council
Cesar Victoria, Videographer, Department of Consumer Affairs (DCA)
Tracy Watts, Ph.D., University of California Los Angeles, patientcare.com
Ann Weinacker, M.D., Professor of Medicine, Stanford Health Care
Sherry Yafai, M.D., Society of Cannabis Clinicians

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

Dr. GnanaDev called the meeting of the Medical Board of California (Board) to order on April 19, 2018, at 2:55 p.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Public Comments on Items not on the Agenda

Ms. Monserratt-Ramos noted that after the discussion at the last Board meeting and after Dr. Krauss' comments and concern about public comment and the teleconference line, she felt compelled to voice her support for the teleconference line. She remarked that as she noted at the San Diego meeting there is a lot of time spent critiquing the actions of the Board. She acknowledged the positive action that the Board has taken on behalf of consumers, including the development of the teleconference line. Ms. Monserratt-Ramos detailed that starting in 2010 she approached the Board and encouraged more public participation, and requested a teleconference line after a long personal history of not being able to communicate with the Board unless physically present for a meeting. She detailed that this Board is the first board that she is aware of to implement a teleconference line, and this she added is an accomplishment.

Ms. Monserratt-Ramos recognized that the Board may have some concerns with the use, but she asked that the Board remember that the consumers are coming from a place of heartbreak. She commented that it is not easy for consumers to approach this Board and voice their concerns about the lack of accountability when it comes to the deaths of Californians and the lack of physician discipline in relation to those statistics. She added that consumers are not the only people that use this line, but also medical associations and doctors as well. The teleconference line allows stakeholders an opportunity to participate in the meetings.

Mr. Andrist commented that out of respect for the public, he asked that the Board Members close their computers and phones until each of the comment sections are done. He noted that it is rude and unprofessional despite the disclaimer given.

Mr. Andrist inquired if there is still an order for the passive censorship to the camera and to take the camera off of the Members during public comment. He questioned if all of the Members are aware of this passive censorship order. Mr. Andrist thanked Consumer Watchdog for their attendance at the meeting and spearheading the Patient's Bill of Rights project. He remarked that he fully supports this Bill of Rights and recommends that the Board do so as well since it is in the name of patient safety.

Mr. Andrist questioned if all doctors are state mandated reporters, why are doctors on the Board not reporting cases of child sexual assault to the police. He asked if there was a reason why all of the documents on the internet are in a searchable format, but not the disciplinary documents. He inquired if the Members were aware of this.

Mr. Andrist elaborated upon procedure listed in the Board Member manual and asked that based upon this, the Public Records Act procedure be reviewed and ensure

compliance. He requested that a motion be made to ensure that an investigation is begun and that the findings are reported at the next Board meeting.

Ms. Balber, Executive Director of Consumer Watchdog, urged the Board to endorse the Patient's Bill of Rights in order to ensure notice, transparency, and accountability for patients in cases of physician discipline. She added that the Bill of Rights includes the right to participation, such as the right to be interviewed when a complaint is submitted, the right to transparency, the right to disclosure if a doctor is on probation, the right to timely action, the right to proportionate enforcement, and the right of independent arbiters. She detailed that she supports that the Board's disciplinary guidelines be mandatory, urged the Board to investigate every patient complaint received, and to undergo a state audit of the enforcement process.

Dr. Watts, Ph.D., remarked that there is an intolerable lack of transparency for physician misconduct in the state of California and provided some details of her own personal experience. She added that she was at the meeting in support of Senate Bill (SB) 1448. She noted that she is an individual that was never interviewed by the Board regarding her complaint and has since found substantial documentary evidence that her medical records have been illegally altered. Dr. Watts detailed her concern in that this information was available at the time of the investigation and remarked that reform is desperately needed in California. She commented that she is a representative of a patient advocacy group and urged that anyone who has been hurt at the UCLA facility to contact UCLApatientgroup.com.

Ms. Hollingsworth, Patient Safety Action Network, requested that the National Practitioner Data Bank (NPDB) be an agenda item at the next Board meeting. She provided a brief history of the NPDB and noted that there are at least five California doctors in the data bank with disciplinary action taken against them, yet their records on the Board website are completely clear. She recommended that the Board look into this and rectify the discrepancy. Ms. Hollingsworth requested that the Board consider a regular report from the NPDB once or twice a year and to also be updated as to how California ranks in the nation.

A member of the public shared her personal experience of being sexually assaulted by her doctor and added that she learned at least two other women had filed complaints against the doctor and that no action was taken due to a lack of staff and resources. She disclosed that she worked with the Los Angeles Police Department Sex Crimes Unit in a news conference to raise awareness about sexual assault by doctors and found out that her attacker had been sexually assaulting women since the 1980s. She came forward to prevent another patient from being a victim and urged the Board to take action and require that doctors who are on probation notify their patients. She explained that patients need this information so they can make an informed decision and added that she would have been saved from her personal experience if this had happened. She remarked that this doctor has since lost his license and will be known as a sex offender, but this should have happened many years ago.

Ms. Mackey, a victim's advocate, disclosed that she and her sister were raped by their pediatrician and for this reason it is vital that something be done to protect against this kind of abuse and that there be more transparency. She pleaded that the Board enact and accept the Patient's Bill of Rights to protect consumers.

Dr. GnanaDev commented that he understands what patients are going through and asked that they connect with Board staff to determine if anything could be done by the Board to assist. He added that there is no excuse for any doctor or any person to commit sexual harassment or misconduct.

Ms. Smick detailed that at the last Board meeting she and her husband shared their contempt with the Board on the handling of their complaint and briefly reminded Board Members of their experience. She added that at the January meeting Board Members shared words of sympathy, but there was no explanation of the mishandling of the complaint other than bureaucracy, red tape, and that the Board's hands were tied. She voiced her support of the Patient's Bill of Rights and detailed that it would provide timely action, ensure transparency, and provide proportionate penalties. Ms. Smick urged the Board to endorse the Patient's Bill of Rights.

Mr. Smick acknowledged the bureaucracy involved in processing cases and asked that the Board back this initiative since what is currently being done is not working.

Ms. Lauren discussed her personal story of a botched surgery that was performed without her permission and left her disabled. She noted that her case was closed and detailed her negative experience in court with the Board's medical examiner. She added that it is not in the interest of public safety. She thanked all the members of the public that spoke before her and Alex from Senator Jerry Hill's office for his support.

Ms. Lauren added that she is an activist and is in contact with many people that have felt threatened by their doctors, cannot get lawyers, nor can they get a complaint to the Board.

Agenda Item 3 Approval of Minutes from the January 18-19, 2017 Quarterly Board Meeting

Dr. Lewis made a motion to approve the January 18-19, 2018 meeting minutes; s/Dr. Krauss.

Mr. Andrist noted places in the meeting minutes where his full speech was not included and inquired why they were left out of the meeting minutes. He remarked that there is coverage of what Board Member's discuss and likewise the public's words should be included. Mr. Andrist requested a motion to work on the minutes since they are incomplete, pointed out that the minutes should not be approved, stated that the Board has received notification that the minutes are unfinished.

Motion carried (8-0-3 – Lawson, Levine, and Sutton-Wills abstained).

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

Dr. GnanaDev reported he and Ms. Pines had calls with the executive staff to discuss the meeting agenda and other Board projects. He noted the release of the strategic plan and the Board's new logo. He announced that the Marijuana Task Force will be disbanded after the Board meeting since the Guidelines for Recommending Cannabis for Medical Purposes have been approved and no further action is needed.

Dr. GnanaDev commented that the following week Board Members would be in Sacramento for the third annual legislative day to meet with legislators and educate them on the functions and mission of the Board.

Mr. Andrist shared his confusion about the procedure, since the Board Member manual specifies that the public can ask Members for motions. He pointed out that the President’s message did not highlight the fact that the Board has a 4% disciplinary rate, or that there are 15,000 public documents missing from BreEZe. He questioned why Members have not taken action and inquired why this was not discussed in the President’s message.

Dr. Yafai asked for clarification on the disbandment of the Marijuana Task Force.

Dr. GnanaDev explained that it will be disbanded, but any issues on cannabis recommendations will be taken up by the full Board.

Agenda Item 5 Board Member Communications with Interested Parties

Dr. GnanaDev mentioned that as a part of his job, he meets with multiple stakeholders such as the California Medical Association (CMA), the legislature, the Governor’s Office, and Department of Consumer Affairs (DCA). He clarified that only Board issues are discussed and any topics he addresses with the legislature Board staff is aware.

Agenda Item 6 Discussion and Possible Action on Appointment of a Member to the Health Professions Education Foundation and Term Limits for the Appointment

Ms. Kirchmeyer noted that at the last Board meeting two Board Members were appointed the Health Professions Education Foundation (HPEF), but that unfortunately one of those individuals will not be able to serve on the HPEF. For this reason, another Member is needed. She remarked that Dr. Hawkins has shown interest. Ms. Kirchmeyer asked for a motion to add Dr. Hawkins to HPEF as a representative for the Board.

Ms. Sutton-Wills made a motion to appoint Dr. Hawkins to the Health Professions Education Foundation; s/ Dr. Lewis. Motion carried unanimously (11-0).

Ms. Kirchmeyer explained that HPEF term limits are currently set at two years, and she requested a motion that term limits move to four years or until the expiration of the Board Member on the Board. She added that this will be more in line with Board Member term limits.

Dr. Lewis made a motion to change term limits to four years or until the expiration of the Board Member; s/ Dr. Bholat. Motion carried unanimously (11-0).

Agenda Item 7 Discussion and Possible Action on 2019 Proposed Board Meeting Dates

Ms. Kirchmeyer pointed out that Board meetings for 2019 are proposed later in each quarter to assist with obtaining statistics for the Board meeting, as well as to assist with the timing of the legislative cycle. Additionally, she added that regions of the State are listed in order to assist in finding a location. Ms. Kirchmeyer asked after discussion a motion be made to approve Board meetings in 2019.

Ms. Lawson requested that the meeting not fall on November 21 and 22, 2019, since members of the public may not be available that close to the holiday.

Dr. GnanaDev explained that Northern California lists Sacramento or San Jose as locations due to the difficulty in finding a hotel in Sacramento.

Ms. Kirchmeyer noted that it could be any place in Northern California and not limited to either Sacramento or San Jose.

Dr. Lewis asked that alternatives to Los Angeles be considered such as San Diego, or Anaheim due to traffic congestion.

Ms. Lawson pointed out that the Board could also look into the Central Valley in Fresno, or Bakersfield, or even going out to the Inland Empire, Riverside, or San Bernardino.

Dr. GnanaDev added that Ontario includes Riverside and San Bernardino area, which might be easier than Los Angeles.

Dr. Lewis made a motion to approve the 2019 dates of January 31-February 1 in Northern California, May 9-10 in Southern California, August 8-9 in San Francisco area, and November 7-8 in Southern California; s/ Dr. Krauss. Motion carried unanimously (11-0).

Agenda Item 8 Presentation on Age, Competency, and Stanford's Late Career Practitioner Policy

Dr. GnanaDev introduced Dr. Weinacker, Senior Vice Chair of Medicine for Clinical Operations at Stanford University, Associate Chief Medical Officer of Patient Care Services, and Interim Chief Quality Officer at Sanford Health Care.

Dr. Weinacker began her presentation by providing some background on the topic. She noted that the number of physicians 65 and older has more than quadrupled from 1975 to 2013 and that 20% of physicians in the United States are older than 65. She added that age-related declines in cognitive and physical functioning can affect professional performance, but age does not result in a decrease of cognitive function per se. She articulated that age and

experience can increase important aspects of a physician's practice, and therefore an age-related policy must balance quality patient care and protecting the reputation and self-esteem of the physician.

Dr. Weinacker discussed other policies that have been implemented and noted the growing support of later career practitioner policies. She detailed that although many physicians recognize their limitations, there are still others that do not. Additionally, two studies have been conducted that demonstrate that physicians are reluctant to report concerns about the competency of their peers, which poses limitations to consumer protection. Dr. Weinacker explained Stanford's late career practitioner policy, detailed the reasoning behind each component of the policy, and specified the application of the policy.

Dr. Weinacker provided key lessons learned from the implementation of Stanford's late career practitioner policy and highlighted key questions that an administration needs to ask prior to the establishment of such policy.

Dr. GnanaDev added that this topic has been discussed at his own hospital. He noted that his greatest concern is about a solo practitioner that may never work in a hospital setting and can be putting consumers at risk.

Dr. Krauss shared that although he has personal timelines of when he is planning his retirement that time may come sooner than anticipated, and hopefully he will be aware of it. He added that an on-site periodic evaluation of physicians might be helpful, but he worried about the practicality of it. He also highlighted the benefits of an outside surveyor performing the evaluation.

Dr. Weinacker stated that another alternative is to invite third party payers or malpractice agencies to offer a discount to physicians that voluntarily undergo this evaluation.

Dr. Levine noted that the major obstacle has been the absence of normative standards for the cognitive testing of physicians. When a physician comes before the Board on a quality of care issue after a certain age, it would be helpful for the Board if there were a requirement for a cognitive assessment, since currently there is not a reliable tool to measure dispositions of performance.

Dr. Weinacker clarified that the micro cog has been approved, but that it is not a full test of capability. She said that peer review of multiple peers might be a possible solution until there is legislation or other means of funding that could assist in the process of validation.

Mr. Warmoth commented that one thing that he obtained from the presentation is that some physicians object to this process since they feel singled out, and he offered that if there was a standardized age for testing, it could alleviate the concerns. He continued that testing could begin at the age of 60, then 65, 70, and 75, which would establish a pattern and better differentiate the results of the evaluation.

Dr. Weinacker agreed with Mr. Warmoth and commented that this approach is similar to the approach that Stanford took when developing their program. She expressed the delicateness

of defining the “right age” and noted the difficulty in figuring out how to operationalize the process and identify funding for this issue.

Dr. Yafai questioned how board certification examinations factor into this process.

Dr. Weinacker answered that board certification examinations do not speak to a physician’s ability to practice.

Dr. Lewis vocalized his opinion that a test does not signify that a person will be a good physician. He added that observation would be necessary to determine a physician’s ability, since people are good test takers. He continued that statistics would also be a helpful determining factor and allow practicing physicians to have more autonomy and not be bogged down by peer review.

Dr. Weinacker elaborated that the micro cog is not something that a physician could study for, and for this reason it is a very telling study, but it is not the perfect way to screen.

Ms. Lawson inquired if this policy works in tandem with corporate succession planning or a transition of knowledge policy since there have been success in these areas in the corporate arena.

Dr. Weinacker remarked that this has been taken into consideration in the development of the plan, but that it has not been fully executed.

Ms. Conner expressed that tests do not work, peer review is too subjective, and that there needs to be something standardized, and impersonal. She added that the practice of medicine should not be looked at as a specialty, but rather it should be viewed as everything else, as a part of the normal aging process that is cyclical.

Agenda Item 9 Presentation on Sobering Centers and Mental Health Urgent Care Center

Dr. GnanaDev introduced Dr. Smith-Bernadin and Dr. Kazan. He explained Dr. Smith-Bernadin is the Director of Clinical Services at Los Angeles County Department of Health Services where she oversees the medical and nursing services, recuperative care, sobering centers, and homeless street engagement services. He stated that Dr. Kazan is filling in for Dr. Mackey.

Dr. Kazan explained that he is a physician and the Medical Director of the Los Angeles County Fire Department. He began the presentation by noting that a top priority for the project is to provide better health care for patients in need and that the current practice allows patients to languish in emergency rooms for hours and days, which is not consistent with the patients’ best interest. Currently, there is a high recidivism rate for these patients since emergency rooms not are equipped with the intensive resources that the patients need in order to get better; in turn costs rise for emergency rooms and patients do not get the help they need. Dr. Kazan explained that as a result of this ongoing issue, a pilot program was created. He detailed how the program works, how patients are screened, the safety nets in place, and provided statistics of how the program has been working.

Dr. Kazan added that Assemblymember Gipson's office has worked diligently with stakeholders in the legislative process to answer questions and concerns related to the pending bill. He clarified that the bill is not about the expansion of the paramedic's scope of practice, rather it is a triage bill that would open up new destination centers for paramedics to get patients to the right level of care when they are first assessed.

Dr. Smith-Bernadin explained that she has spent the last 11 years working in sobering centers and performing research on the effectiveness of sobering programs as an alternative to the emergency department. She detailed what a sobering center looks like, their target population, the intake process, and the duties performed by staff. She walked through the sobering centers located throughout the state and provided a brief description of their history.

Dr. Smith-Bernadin listed what a typical visit at a sobering center entails, noting the frequency that vital signs are taken, assessments that are given, protocols that are adhered to, and the specialty staff that are on site to help the patients. She highlighted the emergency capabilities on site and detailed findings of studies performed on secondary transfers out of sobering centers and the efficacy. Dr. Smith-Bernadin discussed the clinical reasons why patients would be discharged to an emergency department.

Dr. GnanaDev acknowledged that this approach relieves emergency rooms from being as impacted, but noted his concern about patients not seeing a doctor if they should need to and the subsequent effect on the patient's health.

Dr. Kazan noted that different counties have different policies about paramedic base stations. He added that even if these patients are initially evaluated by emergency physicians at the hospital, they become the lowest priority patient. He pointed out that paramedics will perform the same screening and triage processes that physicians do now. He explained that there will be improvement in the quality of care. Dr. Kazan noted that in listening to Dr. Smith-Bernadin's presentation, there are capabilities and resources offered by sobering centers that the emergency rooms cannot provide.

Dr. GnanaDev inquired how the centers get paid.

Dr. Smith-Bernadin responded that generally they are funded the by the county under public health, but different programs may receive funding differently and she provided various examples.

Dr. Levine asked about the capacity of these centers compared to the size of the demand.

Dr. Smith-Bernadin noted for the most part there is enough space for people seeking help. She added that it is most important to have the centers strategically located, collocated with other programs, and to be aware of the various high seasons, which depends on the population.

Dr. Krauss inquired if there has been an outcome analysis of patients that have had to go to the emergency department after a sobering center.

Dr. Smith-Bernadin explained that the study would be inaccurate since they cannot obtain all hospital records. She commented that being a part of the county system has helped with sharing information and she provided two examples of negative outcomes from people who were found in the street. She also shared plans that she has for future research projects that will try and capture this information.

Dr. Krauss suggested that a benefit of the outcome analysis is being able to demonstrate there were few adverse outcomes that could be possibly attributed to delay in transport, and it would thus demonstrate a successful program and alleviate many concerns.

Dr. Smith-Bernadin pointed out that the pilot project is compiling encounters and a full top to bottom analysis is being performed.

Dr. Kazan remarked that triage is happening by police officers who try to decide whether they really need to bring the patient to the emergency department, where they may have to sit with them for a long time or transport them to the mental health urgent care.

Dr. Krauss asked if all of these centers are county facilities, or are there private for-profit centers.

Dr. Smith-Bernadin clarified that none are private for-profit.

Ms. Pines questioned if anyone had died in the sobering center.

Dr. Smith-Bernadin identified that of the 50,000 total encounters three people have passed. She provided more detail into each case.

Ms. Pines asked if a patient is in route to a sobering center, but does not want to go, could they be sent to the hospital.

Dr. Smith-Bernadin confirmed that they will be sent straight to the emergency room.

Dr. Bholat vocalized her support of this work.

Ms. Sutton-Wills inquired about the training that happens with law enforcement and other first responders in terms of making them aware of the available options.

Dr. Kazan answered that currently the training comes from core paramedic and emergency medical technician training. He provided additional information about Assemblymember Gipson's bill and how the bill would change the current training received. He noted that he was unsure about the training received by law enforcement.

Dr. GnanaDev reiterated that he hopes this program will work, but that a sick patient is best served in the emergency room. He also recommended that further or follow-up care could be provided, versus the patient coming back day after day.

Dr. Smith-Bernadin agreed and noted that for some clients this is the life that they live, but aside from this, the San Francisco Sobering Center is the top referring party into detox.

Agenda Item 10 Discussion and Possible Action on Legislation/Regulations

Ms. Simoes shared that Assembly Bill (AB) 2409, SB 1240, and SB 1426 all died.

Ms. Simoes began by updating the Board on AB 2311, a bill that the Board is co-sponsoring with the UC Office of the President, which removes the pilot program status for the existing University of California Los Angeles International Medical Graduate Program. She added that thus far the bill has no opposition.

Ms. Simoes noted that AB 710 mirrors a bill from the previous year, AB 845, and the Board took a neutral position on that bill. She explained that the bill ensures that if the federal government approves cannabidiol treatment, it can be prescribed, furnished, and dispensed in California in accordance with federal law. She commented that Board staff suggested a neutral position be taken.

Dr. Lewis made a motion to take a neutral position on AB 710; s/Ms. Pines. Motion carried (9-0-1, Lawson abstained, Hawkins absent).

Ms. Simoes discussed AB 1752, which adds Scheduled V drugs to the CURES database and shortens the timeline for pharmacists to report dispensed prescriptions. The Board took a support if amended position in January due to concern over a provision that has now been removed. She notified the Board that with the amendment, the Board now has a support position.

Ms. Simoes detailed that AB 1791 allows for an optional continuing medical education (CME) course integrating HIV and Aids pre-exposure prophylaxis and post exposure prophylaxis, and counseling in primary care settings. This bill requires the Board to consider a course on these issues. She pointed out that the Board does not track employment information for physicians, however if the Board decides it is important to get information out to physicians on the CME, it could include an article on the Board's website. She added that Board staff suggests the Board take a neutral position.

Dr. GnanaDev clarified that it would not be mandated CME.

Ms. Simoes reminded the Board that in the past the Board has not taken a support position on mandated CME courses.

Dr. Lewis made a motion to take a neutral position on AB 1791; s/Ms. Pines. Motion carried (10-0-1, Hawkins abstained).

Ms. Simoes explained AB 1795, allows an emergency medical technician paramedic to transport a patient at the scene of an emergency to a behavioral health facility, sobering center, or a general acute care hospital. The Board took a support in concept position in January and she elaborated upon all of the amendments that had been made to the bill since the Board took

the position. Ms. Simoes added that with all the changes, Board staff suggests a support position be taken.

Dr. Levine inquired if the bill specifies funding.

Ms. Simoes noted that there are no specifics regarding funding, rather the bill focuses on the authority of emergency medical services. She added that it must be county run.

Dr. GnanaDev requested information regarding who was in support of the bill.

Ms. Simoes listed the agencies that were in support and opposition of the bill.

Ms. Sutton-Wills made a motion to support AB 1795; s/Dr. Lewis. Motion carried unanimously (11-0).

Ms. Simoes commented that AB 1998 requires every healthcare practitioner authorized to prescribe opioids to adopt a safe prescribing protocol by June 1, 2019. The bill requires a written document to promote the appropriate and optimal selection of dosage and duration of opioid prescriptions for patients with the goal of reducing the misuse of opioids. She noted that if the safe prescribing protocol is not appropriate for a patient's condition, the practitioner must provide justification in the patient's record. Ms. Simoes added that failure to develop or adhere to the protocol would constitute unprofessional conduct, which would be enforceable by the Board. She concluded that Board staff suggests the Board take a neutral position.

Ms. Lawson inquired why the recommendation was neutral versus support.

Ms. Simoes explained that a neutral position was recommended since requiring every physician to adopt a prescribing protocol could be time intensive for physicians, but that an oppose position should not be taken.

Dr. Hawkins asked why the chronic pain patients would be excluded from the exceptions in the group.

Ms. Simoes commented in terms of misuse of opioids, the largest group of concern is acute pain versus chronic pain.

Dr. GnanaDev added that the acute pain population is the least susceptible to opioids.

Ms. Kirchmeyer clarified that the bill was targeted at acute pain individuals that get a 30- or 90-day supply. She provided a bit more context behind the history and intent of the bill.

Dr. GnanaDev noted that there are many situations that prescribers can encounter. He added that there is more work that needs to be done on the bill to try and capture these nuances, and suggested that was the reason behind a neutral recommendation.

Dr. Levine noted her concern and elaborated that if a piece of legislation is proposed, it needs to ensure that whatever was legislated will be effective and this is not the case. She provided examples of issues within the medical community and highlighted the pros and cons of the bill.

Dr. Lewis added that the bill seemed very prescriptive and does not allow for independence for the prescriber. He stated that he would oppose, unless amended.

Dr. Bholat noted her support for certain aspects of the bill and agreed with Dr. Levine that there is still work that needs to be done.

Dr. Lewis made a motion to take a neutral position on AB 1998; s/Dr. Hawkins.

Mr. Andrist noted his astonishment that the reason why the CURES database is not checked is due to a doctor's lack of time. He added that people are dying and a trend in the disciplinary cases is overprescribing. He stated that a worry for the Board should not be that doctors do not have time to check CURES.

Motion carried unanimously (11-0).

Ms. Simoes introduced AB 2086, which allows a prescriber to access the CURES database for a list of patients for whom the prescriber has prescribed to, which will help prevent doctor shopping. The bill gives physicians access to more information in CURES, which will make CURES even more effective, and for this reason Board staff suggests a support position.

Dr. Yip inquired about the language of the bill.

Ms. Kirchmeyer clarified that the bill is written in order to help physicians run a list of their own prescribing.

***Ms. Lawson made a motion to take a support position on AB 2086; s/Dr. Levine.
Motion carried unanimously (11-0).***

Ms. Simoes detailed that AB 2138 prohibits denial, revocation, and suspension of a license for specified convictions. The bill prohibits regulatory boards from requiring an applicant to self-disclose criminal history information. She added that the bill significantly narrows the authority of the Board to deny a license and take disciplinary action, allows applicants to lie on their application without any consequences, and will have significant fiscal impact on the Board. Ms. Simoes added that the bill is not in line with the Board's mission of consumer protection and for this reason, Board staff suggests an oppose position.

***Dr. Lewis made a motion to take an oppose position on AB 2138; s/Dr. Krauss.
Motion carried unanimously (11-0).***

Ms. Simoes explained that AB 2174 requires the California Department of Public Health (CDPH) to develop, coordinate, implement, and oversee a comprehensive multicultural public awareness campaign known as the Heroin and Opioid Public Education (HOPE) program. She

added that the Board supported the bill the previous year and Board staff recommends a support position.

Dr. Lewis made a motion to take a support position on AB 2174; s/Ms. Pines. Motion carried unanimously (11-0).

Ms. Simoes elaborated on AB 2193, which requires healthcare practitioners who treat or attend a mother or child to screen the mother for maternal mental health conditions at least once during and once after pregnancy. She added that it is not appropriate to statutorily mandate the standard of care and for this reason, Board staff recommends an oppose.

Dr. Hawkins asked if the primary goal is to protect an infant or child.

Ms. Simoes clarified that it would be to ensure postpartum care for the mother and would require screenings.

Dr. Bholat asked if it was any healthcare practitioner that would have to do the screening.

Ms. Simoes reiterated the language of the bill and confirmed.

Dr. Levine noted that the concept is right and that currently many obstetrics and gynecologists provide this screening, but this bill goes beyond that.

Dr. Lewis made a motion to oppose AB 2193; s/Dr. Krauss.

Ms. Sparrevohn, licensed midwife, noted that the intent is for the health care provider that is caring for the pregnant woman to provide the screening. She commented that women are not getting screened and that one in five women face this issue and it can be fatal. She asked that the Board take a neutral position, since the only mandate would be to screen, but not how to screen.

Dr. Hawkins asked if there is a mandate for what to do after screening.

Dr. Levine responded that the findings need to be reported to the primary care physician.

Ms. Sutton-Wills questioned if it is the healthcare practitioner who attends the first post-delivery appointment that would be responsible.

Ms. Simoes noted there is no specification.

Motion carried (8-1-2, Sutton-Wills nay, Bholat and Yip abstained).

Ms. Simoes remarked that AB 2461 requires the Department of Justice (DOJ) to provide all subsequent state and federal criminal history for any person whose fingerprints are maintained on file at DOJ or the FBI. She stated this is important since the Board depends on DOJ notifications to be informed when a licensee has been arrested or convicted of a crime in order

to look into the matter and take appropriate action. She noted that this is essential for the Board to meet its mission, and therefore Board staff suggests a support position.

Ms. Lawson made a motion to take a support position on AB 2461; s/Dr. Bholat. Motion carried unanimously (11-0).

Ms. Simoes explained that AB 2483 specifies that the treble damages awarded are not punitive or exemplary damages and guards personal liability for reasonable good faith actions taken as part of a Board Member's role. This protection is needed for Board Members serving on regulatory boards. She added that Board staff suggests the Board take a support position.

Ms. Kirchmeyer added that this bill is in response to the outcome of the Federal Trade Commission v. North Carolina Dental Board Examiners case.

Dr. Hawkins made a motion to take a support position on AB 2483; s/Dr. Bholat. Motion carried (10-0, Lewis absent).

Ms. Simoes discussed AB 2487, which requires all physicians to complete an eight-hour mandatory CME course on the treatment and management of opiate dependent patients. The Board is required to determine whether the physician has met the requirements. Ms. Simoes stated the Board adopted a policy compendium in 2014 opposing the concept of mandating specific CME topics, and for this reason, Board staff suggests the Board take an oppose position.

Dr. Hawkins inquired why buprenorphine training is specifically listed in the bill.

Ms. Simoes explained that it is basically the same training that physicians are required to take for Substance Abuse and Mental Health Services Administration (SAMHSA) to get the X waiver to prescribe buprenorphine. Additionally, this bill would require all physicians to take the course whether or not they prescribe and therefore it would be better for those that prescribe to take the SAMHSA course.

Dr. Krauss provided some background into the opioid epidemic and noted his opposition.

Ms. Lawson stated that a substantial majority of the disciplinary cases are for overprescribing, inappropriate prescriptions, or prescriptions to people who never should have received a prescription in the first place. She commented that it is the duty of the Board to try and provide solutions since there is an opioid epidemic and eight hours of required CME is not a bad start to assist in the elimination of the issues.

Ms. Simoes shared that this bill is based on the Comprehensive Addiction Recovery Act (CARA) of 2016 and this is the same training to get the SAMHSA X waiver.

Ms. Lawson stated that she did not think that the Board should take an oppose position.

Dr. Lewis pointed out that this CME might not be relevant for all physicians and therefore it should not be mandated. He added it also focuses only on one specific drug.

Ms. Lawson remarked that this might not be the perfect approach, but it would assist with people that are prescribing.

Mr. Warmoth asked if the CME requires training for solving over prescribing of opiates.

Ms. Simoes noted that at least eight hours of the CME training needs to be on buprenorphine. The CMEs help on the treatment side not the prevention side.

Dr. GnanaDev commented that this bill would create an additional obstacle for a physician to treat their patients and additionally the Board has always taken issue with mandated CMEs.

Ms. Sutton-Wills explained that a neutral stance would be more appropriate for patient protection.

Dr. Krauss expressed his fear that everything is thought to be fixed by CMEs. He acknowledged the crisis and the problem, but reiterated his stance that the legislature should not dictate the standards of medical education.

Ms. Lawson made a motion to take a neutral position on AB 2487; s/Ms. Sutton-Wills.

Mr. Andrist inquired if the imposition of required CME is ever not in the interest of the public and reminded the Members that the Board's priority is patient safety.

Dr. Krauss noted the importance of understanding that physicians are required to take 50 hours of CMEs every two years for licensure and the more CMEs required, the more the physician is out the office and not spending time with their patients. He added that mandating CMEs for maintaining conditions of licensure is not appropriate if there is no evidence that it will improve the quality of care.

Motion failed (5-3-3, Bholat, Lewis, and Warmoth nay; GnanaDev, Krauss, and Levine abstained).

Ms. Sutton-Wills asked to be briefed on this bill prior to taking a position.

Ms. Kirchmeyer answered that it will go to hearing before the July Board meeting. She added that the bill will progress and it could just be that the Board will not take a position.

Dr. Krauss made a motion to oppose AB 2487; s/Dr. Lewis. Motion failed (4-4-3, Lawson, Pines, Sutton-Wills, and Yip nay; Bholat, GnanaDev, and Warmoth abstained).

Ms. Kirchmeyer detailed that staff has struggled with the bill due to the compendium and the fact that the CME only covers buprenorphine.

Dr. Levine added that part of the problem is that this bill does not offer an exemption for physicians who do not have a DEA license and have never written a prescription for a controlled substance. She added that a problem has never been solved by CME.

The Board did not to take a position on AB 2487.

Ms. Simoes explained AB 2539 revises the definition of “practice setting” for eligibility under the Physician Core Loan Repayment Program, which includes the Steven M. Thompson Loan Repayment Program and the Physician Volunteer Program for community clinics and physician offices. The bill would change the definition from the requirement that 50% of their patient population must qualify as medically underserved to 30% if the setting is in a rural area. She added that last year the Board took a neutral position on AB 148, which included the same language, and therefore Board staff suggests a neutral position.

Dr. Krauss made a motion to take a neutral position on AB 2539; s/Dr. Hawkins. Motion carried unanimously (11-0).

Ms. Simoes discussed AB 2682, which removes the physician supervision requirement for certified nurse-midwives (CNM), allows CNMs to attend cases of normal childbirth, and allows CNMs provide prenatal inter partum and postpartum care. Additionally, the bill requires the CNM to transfer care to a physician and surgeon if the condition is beyond the CNM scope of practice based on the education of the CNM. She noted that although the Board was supportive of the bill in 2013 that removed physician supervision for licensed midwives, it was due to the fact that the bill was very restricted and clear on what types of patients licensed midwives could accept and it did not allow licensed midwives to accept high-risk patients. She added that AB 2682 has no clear limits on what types of patients a CNM could accept. Ms. Simoes reminded Board Members that an oppose unless amended position was taken the year prior and therefore Board staff suggests an oppose unless amended position.

Dr. Levine made a motion to take an oppose unless amended position on AB 2682, with the amendments being that the bill contain requirements similar to those required for licensed midwives; s/Ms. Pines.

Ms. Sparrevohn, vocalized her concerns over the fact there are two different legislative standards in the same setting for midwives and she provided further explanation. She cautioned that if this is not corrected, there will be lateral transfers from licensed midwives to CNMs to perform the items that licensed midwives cannot complete.

Motion carried unanimously (11-0).

Ms. Simoes explained AB 2741, which sets a five-day limit on all opioid prescriptions for acute pain management for minors. The bill provides exemptions for certain patients and requires prescribers to obtain written consent from the minors’ parent or guardian on a standardized consent form developed by the Board. Ms. Simoes concluded that Board staff recommends that that the Board take an oppose unless amended position.

Dr. Levine asked what the suggested amendments would be.

Ms. Simoes responded that amendments could include a more reasonable limit. She added that there may be cases that are not considered chronic or acute that would limit the access to patients. She noted the redundancy of the development of a consent form since the information can be included in the patient's medical record.

Ms. Lawson voiced that she would like to take a support if amended position. She commented that she is not fond of the standardized consent form or inviting the Board into the process and added that if there is more reasonable limit, it should be adjusted.

Dr. Levine remarked that there are some illnesses that are not chronic, but are reoccurring and associated with severe pain, and the limited exceptions do not cover these cases, in addition to five days being an arbitrary number. She stated her support for a neutral position and working with the author's office.

Ms. Sutton-Wills asked to hear from the physicians about an amendment that would include charting an exception to five days rather than a hard and fast exception to five days.

Ms. Simoes noted that the bill stipulates that a physician can use their professional judgment on a case-by-case basis and provide justification in the patient's medical record.

Ms. Sutton-Wills inquired why the Board would oppose the bill if it stipulates that there is an exception based upon the physician's judgement.

Dr. GnanaDev answered that there have been enough cases where two doctors have differed and standard of care is not a straight forward thing. He agreed that oppose might be too strong, and that neutral might be more appropriate.

Dr. Krauss asked if the American Academy of Pediatrics has supported this bill.

Dr. Levine remarked the American Academy of Pediatrics announced that with certain exceptions there should be no use of opiates in anyone under the age of 18. She noted some instances where there are real abuses of opioids for minors.

Dr. Krauss noted that the benefit of support if amended is that it can assure that a physician can put their reason for pursuing a longer prescription in the chart.

Dr. Hawkins added that since the physician can determine exceptions, he is wondering why the bill is necessary.

Ms. Kirchmeyer commented that the Centers for Disease Control found that after six days of opioid use the chance of addiction doubles and again doubles by the twelfth day. She added that Arizona recently implemented a five-day limit, and this is where the requirement for a five-day supply originated.

Dr. GnanaDev detailed that this approach was also taken by states on the east coast and many patients with chronic pain could not be treated and were struggling, but since this bill is for

minors, it is a different issue. He commented that it is important to look at this bill from all sides since there is significant backlash.

Dr. Bholat pointed out that she thinks the medical community generally is moving away from opioids and requested that she would like to hear more about treatment of chronic pain and children.

Dr. Krauss made a motion to take support if amended position on AB 2741; s/Dr. Bholat.

Ms. Kirchmeyer requested information from the Members on the specific amendments the Board would like presented to the author's office. She pointed out that one amendment would be to not require the development of a consent form.

Dr. Levine specified that she would like sickle cell crisis and acute intermittent porphyria listed as an exception.

Ms. Allred, CMA asked that the Board take an oppose position, since the bill will legislate the practice of medicine. She noted that there needs to be flexibility, but this law would make the requirements more stringent and sets a precedent with a signed consent form for a medical procedure for a minor.

Mr. Andrist commented that only 31% of California doctors belong to CMA, and the Board's mission is to protect patients.

Motion carried (10-0-1, Levine abstained).

Ms. Simoes elaborated that AB 2760 requires a prescriber to co-prescribe a prescription for naloxone when the prescription dosage for the patient is 90 or more morphine milligram equivalents (MME) per day, when an opioid medication is prescribed concurrently with a prescription for benzodiazepine, or when the patient presents with an increased risk for overdose, including a patient with a history of overdose, a patient with a history of substance use disorder, or a patient at risk for returning to a high dose of opioid medication to which the patient is no longer tolerant. Additionally, the bill requires the prescriber to provide education and specifies that any violation of this bill's requirements would constitute unprofessional conduct and be grounds for disciplinary action by the Board. She noted that since this bill will increase at-risk patients' access to naloxone, which furthers the Board's mission of consumer protection, Board staff recommends a support position.

Dr. Hawkins vocalized his concern regarding the education piece of this bill and wondering if there would be inappropriate use of naloxone.

Ms. Simoes noted that the Board has been historically in support of increased access of naloxone since it reverses the overdose and has been shown to save a lot of lives.

Dr. GnanaDev asked for more specifics regarding the education.

Ms. Lawson inquired why patients that have a history of overdose are being prescribed opiates and asked if education is truly being provided, or would it be more of a tool to reverse an overdose.

Ms. Simoes reiterated the education requirement and concluded it is very broad.

Ms. Lawson asked if it fits the standard of care to provide opiates to patients with history of overdose.

Dr. Levine defined that there are different circumstances in which naloxone can be prescribed and provided more detail and clarification.

Ms. Simoes added that the bill does not dictate how to prescribe opioids, rather it provides guidance as to when naloxone needs to be prescribed. She remarked that the intent of the bill is to provide greater access to naloxone.

Dr. GnanaDev clarified that the bill stipulates that naloxone needs to be provided when certain conditions are met.

Dr. Lewis made a motion to support AB 2760; s/Mr. Warmoth.

Dr. Hawkins asked for the cost of naloxone.

Dr. Levine answered that it is somewhere between \$25 and \$40 and that most insurance plans covers it.

Motion carried (9-0-2, Krauss and Levine abstained).

Ms. Simoes discussed AB 2789, which requires a health care practitioner authorized to issue a prescription to have the capability to issue an e-prescription and to transmit an e-prescription to a pharmacy by January 1, 2020. Additionally, the bill requires all pharmacies, pharmacists, or other practitioners authorized to dispense and furnish a prescription to have the capability to receive an e-prescription by January 1, 2020 and all prescriptions to be issued as e-prescriptions by January 1, 2021. She noted some exceptions in the bill and added that a violation of the bill's provisions constitutes unprofessional conduct and would be grounds for disciplinary action by the Board. Ms. Simoes concluded noting that e-prescribing would help to eliminate fraudulent prescriptions, including prescriptions for opioids, however, it may be an issue for some physicians in California that do not have access to this kind of technology.

Dr. GnanaDev remarked that there are parts of California in which e-prescription would be quite challenging to obtain.

Dr. Hawkins commented that he supports e-prescriptions, but his understanding is not all drugs can receive an e-prescription.

Ms. Simoes reiterated the exceptions.

Mr. Warmoth vocalized his concern over hackers getting into systems and he noted that e-prescription may be a target.

Dr. Bholat noted her support, but added that rural areas pose a problem.

Dr. GnanaDev shared his concern that rural facilities might not be ready by the date of implementation.

Ms. Simoes clarified that there will be delayed implementation.

Dr. GnanaDev asked if there is an entity that will help these facilities to prepare for the change. It could mean that peoples' access to care is gone.

Ms. Sutton-Wills made a motion to support AB 2789 if amended; s/Dr. Hawkins.

Ms. Simoes confirmed that the amendment would be that rural areas will either be exempted or will receive help to implement changes.

Motion carried (10-1, Warmoth).

Ms. Simoes explained AB 2968 updates and modernizes DCA's informational brochure for victims of psychotherapist-patient sexual impropriety. Specifically the brochure would incorporate modern topics related to sexting, and updated related definitions. She added that Board staff assisted in changes to the current brochure and recommends support of the bill.

Ms. Lawson made a motion to support AB 2968; s/ Ms. Sutton-Wills. Motion carried unanimously (11-0).

Ms. Simoes elaborated on SB 944, which authorizes a local emergency medical services (EMS) agency to develop a community paramedicine program to provide specified community paramedicine services. The bills specifies that community paramedic services may consist of providing short-term post-discharge follow-up for persons recently discharged from a hospital due to a serious health condition, providing directly observed case management services to frequent emergency medical services users, providing hospice services to treat patients in their homes, and providing patients with transport to an alternate destination facility. She noted the similarities and differences between SB 944 and AB 1795. She concluded that Board staff suggests the Board take an oppose position.

Dr. GnanaDev vocalized his concerns regarding this bill and noted his approval of an oppose position.

Ms. Simoes added that the difference between this bill and the other bill is that the criteria needs to be set by an advisory committee. She reminded the Board that their main issues with the other bill were the criteria and regulations.

Ms. Kirchmeyer commented that the biggest issue between the two bills was that AB 1795 tackled the issue of transport with two specific areas that individuals can be transported to,

whereas SB 944 is much broader and not limited to transport. For this reason, Board staff is recommending an oppose position since it would widen the scope of practice for paramedics.

Dr. GnanaDev added that this bill represents a serious consumer protection problem. He added that hospital discharge and follow up is not that simple.

Ms. Simoes detailed that post-discharge follow-up, and what it consists of, is not specified in the bill.

Dr. Krauss specified that what the Board approved in terms of transport to sobering centers and mental health centers is far different from what is defined in this bill. He shared his reservations since it leaves medical decisions up to paramedicine experts who have yet to have their exact training and supervision be defined. He added that some of this may be profit driven by private ambulance companies who wish to hire more paramedics to provide services and additionally that the bill is really not complete. Dr. Krauss concluded that the Board should oppose it until there is more evidence that this is safe for consumers.

Ms. Simoes reminded the Board that they could take the position of oppose unless amended position asking for further criteria, which was the action taken on AB 1795.

Dr. Krauss made a motion to oppose SB 944; s/ Dr. Hawkins. Motion carried (9-0-2, Lawson and Sutton-Wills abstained).

Ms. Simoes explained that SB 1448 requires that on and after July 1, 2019, physicians and surgeons, osteopathic physicians and surgeons, podiatrists, acupuncturists, chiropractors, and naturopathic doctors must notify patients of their probationary status before seeing a patient for the first time. Additionally, the physician on probation must provide the patient or the patient's guardian or health care surrogate, with a separate disclosure that includes, the licensee's probationary status, the length of the probation and the end date, all practice restrictions placed on the licensee by the Board, the Board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the Board's website. She added that the bill specifies that a licensee required to provide a disclosure shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of the disclosure. She provided additional information regarding exceptions to the notification requirement as well as what the bill would require of the Board.

Dr. Krauss vocalized his concern that if this bill passed, the Board may be drowned with cases of physicians who will not accept probation and the Board may not have the adequate staff, resources, and funding to conduct lengthy hearings. He added that unless the bill comes with assurance that the Board will not have resource issues, he would be reluctant to endorse it. Dr. Krauss also questioned why only some of the healing arts professionals are included, and not all of them.

Dr. GnanaDev commented that the previous year the Board spent numerous hours to come up with a resolution that had full Board support and it is his suggestion that the Board propose that recommendation, which means a support if amended position on the bill.

Dr. Levine agreed with the application to all the healing arts boards. She added that practitioners should have the same degree of protection. She voiced her support of the position that the Board took the year prior.

Dr. GnanaDev stated an amendment would also be that it applies to all healing arts boards.

Dr. Bholat agreed that funding should be secured, because adding more work to an unfunded system would not be efficient.

Ms. Kirchmeyer clarified that the bill would require a fiscal analysis as it moves through the legislative process. The Board will submit a budget change proposal asking for more positions and more funding for those positions as well as for the Attorney General's Office.

Dr. Lewis made a motion to support SB 1448 if amended; s/ Dr. Krauss.

Dr. Hawkins asked for clarification on the amendments.

Ms. Kirchmeyer noted that the amendments would be to replicate the language that was included in SB 798, which limited the notification requirement to only certain types of cases and to require the notification from all the healing arts boards' licensees.

Ms. D'Angelo Fellmeth, Center of Public Interest Law, noted that her organization supports SB 1448 as they did all of the preceding bills. She added that although the Board posts the information online, this information is only useful if the patient is aware that the information is available online and many are not. She added that it implies that the consumer is computer literate, has access to the internet, and can read a disciplinary decision filled with legal jargon. She gave her support of the new app, but also noted that it assumes that the consumer has a cell phone. Ms. D'Angelo Fellmeth remarked that currently the burden is on the patient, but this bill would shift the burden to the physician and would be in line with the Board's mission.

Mr. Andrist thanked the Board for taking this bill and thanked Ms. D'Angelo Fellmeth for her statement. He added that it is in the best interest of public safety for doctors to report when they are on probation, especially considering that legitimate complaints have been closed, or that some doctors have bartered down to only receive a slap on the wrist. He shared that he is aggrieved that the public is overlooked on a regular basis and the Board is run by doctors who are trying to protect other doctors and public members who acquiesce to them. Mr. Andrist noted that no board should be composed of the very people that it is meant to protect the public from and reminded the Board that this bill promotes patient safety and therefore they should support it.

Ms. Hollingsworth encouraged the Board to endorse SB 1448. She added that most people do not know that they can look up their doctor, and it is unconscionable that a patient cannot be warned if her or his doctor has been found in violation, especially for sexual misconduct. She remarked that in most cases all parties know, but the consumer. Ms. Hollingsworth provided an example of a doctor whose discipline was added to the Board website that day and asked Board Members if they would feel comfortable if this doctor treated them.

Motion carried unanimously (11-0).

Dr. GnanaDev adjourned the meeting at 7:33 p.m.

RECES

Friday, April 20, 2018

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

Members Present:

Dev GnanaDev, M.D., President
Michelle Anne Bholat, M.D.
Randy W. Hawkins, M.D.
Howard R. Krauss, M.D.
Kristina D. Lawson, J.D.
Sharon Levine, M.D.
Ronald H. Lewis, M.D., Secretary
Denise Pines, Vice President
Brenda Sutton-Wills, J.D.
David Warmoth
Felix C. Yip, M.D.

Members Absent:

Jamie Wright, J.D.

Staff Present:

April Alameda, Chief of Licensing
Diane Curtis, Information Technology Supervisor I
Mary Kathryn Cruz Jones, Associate Governmental Program Analyst
Christina Delp, Chief of Enforcement
Kimberly Kirchmeyer, Executive Director
Christine Lally, Deputy Director
Regina Rao, Associate Governmental Program Analyst
Elizabeth Rojas, Staff Services Analyst
Jennifer Simoes, Chief of Legislation
Kevin Valone, Staff Services Analyst
Carlos Villatoro, Public Information Manager
Kerrie Webb, Staff Counsel

Members of the Audience:

Carmen Aguilera-Marquez, Supervising Investigator, Health Quality Investigation Unit,
Department of Consumer Affairs
Megan Allred, California Medical Association
Eric Andrist
Alan Blatt, NiaMedic

William Britt, Association of Patient Advocates
Gloria Castro, Senior Assistant Attorney General, Health Quality Enforcement Section, Attorney General's Office
Zennie Coughlin, Kaiser Permanente
Julie D'Angelo Fellmeth, Center for Public Interest Law
Neha Dhadwal, Northwestern University
Lisa Douglass
Billy Earley
Virginia Farrugia
Fred Gardner, Oshaughnessey Journal
Ed Hollingsworth
Marian Hollingsworth, Patient Safety Action Network and Medical Board Round Table
Wade Laughter, Patient Advocate
Patrick Le, Assistant Deputy Director, Board and Bureau Services, Department of Consumer Affairs
Jesse Lopez, Investigator, Health Quality Investigation Unit, Department of Consumer Affairs
Lisa Matsubara, California Medical Association
William McGregor
Michelle Monseratt-Ramos, Consumers Union Safe Patient Project
Kathleen Nicholls, Deputy Chief, Health Quality Investigation Unit, Department of Consumer Affairs
Robert Pulido, Supervising Investigator II, Health Quality Investigation Unit, Department of Consumer Affairs
Steven Robinson, M.D., Society of Cannabis Clinicians
Adriane Ronderos, Investigator, Health Quality Investigation Unit, Department of Consumer Affairs
Perry Solomon, M.D., Hello MD
Carrie Sparrevohn, L.M., Midwifery Advisory Council
Güven Uzun
Cesar Victoria, Videographer, Department of Consumer Affairs
Sherry Yafai, M.D., Society of Cannabis Clinicians

Agenda Item 19 Call to Order/Roll Call/Establishment of a Quorum

Dr. GnanaDev called the meeting of the Medical Board of California (Board) to order on April 20, 2018, at 9:02 a.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 20 Public Comments on Items not on the Agenda

Mr. McGregor commented that he identified that there are two groups of people: one that have good outcomes with prescription pharmaceuticals and one that does not. Those that have bad results have died. He noted that humans have a right to say no more to prescription pharmaceuticals and go holistic. Mr. McGregor mentioned that cannabis is holistic. He commented that older people may have been run through the pharmaceutical mill with bad results. He added that the older the person is, the more times they might have encountered bad prescription drugs, but lived. Mr. McGregor noted that the person might be alive, but he

questioned how damaged are they as a result of prescription pharmaceuticals. He shared his past medication routine, the length of time used, and reasons why.

Mr. Hollingsworth clarified that he would be speaking for himself. He admitted that he came to the Board meeting to castigate the Board, but with the launch of the new application to help consumers, the Board's support of the Patient Bill of Rights, and improved relations between Board Members and the public, he was pleased with the outcome. He noted that there is still one lingering problem, which is that there are people that are suffering and light actions are being taken against the doctors that have committed egregious acts. Mr. Hollingsworth continued to provide several examples of egregious acts performed by doctors and explained the harm on the individuals. He requested that the Board not treat the doctors that commit these acts so gently. Mr. Hollingsworth detailed that he has been a teacher for the past 38 years and if he were to do any of the myriad of things doctors have done, his credentials would have been revoked and he would face jail time. He reminded the Members that they took an oath to protect the people of California. Mr. Hollingsworth concluded that by giving light sentences to doctors, it allows doctors to do harm, and therefore is a violation of the Board oath. He urged the Board to stand up to these doctors and applauded the progress made by the Board.

Mr. Andrist shared his experience and that of other advocates incurring costs in order to attend the Board meeting and recommended that the Board look at the cost of the location when booking. He commented that he has researched the budget breakdown on the costs of a regional meeting and found a cost-effective alternative for both the Board and consumers in Burbank. Mr. Andrist commented that the camera man focused on the table skirt instead of the Board and noted the passive censorship. He confirmed his enjoyment attending the meeting and hoped that the Board can see how passionate he is and understand his attempts at trying to help improve the Board. He shared that since the Board wrongly closed the complaint against the doctor that killed his sister, the Board will now have to endure his presence on matters related to doctors not being reprimanded for their wrongdoings. Mr. Andrist expressed that he feels that there is no accountability with Board, when their job is not done properly, or they break the law, or do not follow the guidelines.

Mr. Andrist reiterated his role as a patient advocate, a position that started full-time caring for his sister. He detailed how he continues this work through his website, by monitoring the Board, and reading the disciplinary documents provided by the Board. He noted that if the Board and Board staff are willing to work with him, he will work on a better demeanor with the Board. Mr. Andrist added that if the Board will not collaborate with him, he will interpret this as the Board not caring about him, his health, or improving the Board. He provided the Board with his email address.

Ms. Monseratt-Ramos urged the Board to support the Patient's Bill of Rights. She stated that the Board would not have had to put up with her or the non-profits that she has brought forward had the Board properly investigated her case. She added that there is no place else in California where a Californian dies and it will not be investigated. Each death needs to be investigated. Ms. Monseratt-Ramos remarked that the consumer needs another step in the complaint process, specifically the consumer should be given an opportunity to address comments made by the doctor prior to case closure. She insisted that this will give the

consumer the opportunity to provide input before the case is closed, which will in turn bring the consumer closure and will improve the enforcement process.

Agenda Item 10 Discussion and Possible Action on Legislation/Regulations

Ms. Simoes explained that SB 1109 requires existing pain management CME courses to include the risks of addiction and overdose for physicians licensed on or after January 1, 2019, and mandates that warning labels of scheduled II controlled substance prescription bottles contain the associated addiction and overdose risks. She continued that the bill also requires minors and a parent or guardian signature on a specified form after a required consultation and discussion with the prescriber as specified when a minor receives an initial opioid prescription, obligates a prescriber to provide an information sheet on the risks of opioids to be signed by a minor athlete and his or her parent or guardian before participation in an organized sports team, and includes exceptions to the informed consent discussion requirements. She added that SB 1109 will increase education for physicians and patients and specifies that failure to comply with the informed consent and written consent requirements may subject the prescriber to disciplinary action for unprofessional conduct. Ms. Simoes concluded that since the bill will further the Board's mission Board staff suggests that the Board take a neutral or support position on the bill.

Ms. Lawson asked about the differences between AB 2741 and SB 1109.

Ms. Simoes clarified that AB 2741 put a five-day limit on opioids.

Ms. Lawson agreed and noted that the bill included a form.

Ms. Simoes noted that there is not a mandated form that needs to be used, rather a discussion needs to happen between the prescriber and patient to divulge the risks of opioids, and that informed consent is required. She added that there are specific elements that must be included when obtaining the consent and that a signature is required.

Ms. Lawson noted that SB 1109 mentions that the consent needs to be obtained in a form separate from another document.

Ms. Simoes confirmed that all forms may be different as long as whatever is provided meets the requirements of the bill.

Ms. Kirchmeyer detailed that SB 1109 is more along the normal lines of the standard of practice regarding informed consent.

Ms. Simoes explained that currently every physician has to take a 12 hour one-time pain management and end of life course and this bill would include that part of the required course would discuss the risks of addiction and overdose.

Dr. GnanaDev asked if Board staff has any concerns with the bill.

Ms. Simoes noted that she had not identified any concerns with the bill since it is not a new requirement and would add onto the existing requirements for CMEs. She added that the class would include the risks of addiction and overdose, which is something that is most likely already addressed, but now is a specific component.

Dr. Levine inquired if this bill would mandate two different consent forms if prescribing an opiate to a minor.

Ms. Simoes clarified that a required discussion is the requirement in SB 1109 and that the requirement in AB 2741 is a consent that has to be signed.

Dr. Levine added that the bill would require a consent form to be developed and signed by the minor's parent or guardian and the prescriber when prescribing opioids, in addition to a signed consent form that incorporates specific points mandated by the bill.

Ms. Simoes agreed that she was correct.

Dr. Levine commented that she was trying to understand this bill through the perspective of the family and the prescriber.

Acknowledging Dr. Levine's analysis and the requirement of two forms, Dr. GnanaDev noted that amendments may be necessary.

Dr. Hawkins questioned if currently there is a system that is confirming if physicians are actually meeting the CME requirement. He added that he is in favor of all physicians receiving an update on the opioid issues, and approaches to treatment with a specified curriculum.

Ms. Simoes answered that every physician is being checked to ensure that the CME pain management requirement is met.

Dr. GnanaDev stated that pain management courses now include the issue of opioids. He noted that back in 2001 physicians could have received disciplinary action for not prescribing appropriately for pain. He commented that he thought it best to not create another mandate.

Ms. Sutton-Wills noted that since there is no specified form that needs to be used there is nothing that would prevent the form mandated in the other bill to be used for the purposes of this bill.

Ms. Simoes specified that this bill has certain requirements in terms of what needs to be discussed with the patient and what needs to be signed off on, whereas the other bill has certain specifications, so to ensure compliance the two would have to be compared and then rectified.

Ms. Sutton-Wills requested clarification on whether or not there is an overall requirement for more CMEs or just to have an amendment to a CME.

Ms. Simoes pointed out that the bill does not imply more CMEs. She added that all physicians are required to take a one-time 12 hour CME on pain management and this bill directs licensees after January 1, 2019, to take the one-time 12-hour CME on pain management that will include the risk of addiction and overdose.

Ms. Sutton-Wills asked why Board staff recommended a neutral position.

Ms. Simoes replied that Board staff recommend either a neutral or support position.

Ms. Kirchmeyer clarified that the CME requirement would pertain to licensees effective after January 1, 2019. Therefore it is geared toward for all new licensees in California.

Dr. Yip shared that pain management is an important first step in communication education. He added that it should be taught and talking about pain management should be discussed before prescribing.

Dr. Levine stated that perhaps the Board should take a support if amended position in order to harmonize the consent requirements. This would mean that the authors would work together to devise a single consent form containing all the elements necessary that would be required for the prescribing. She noted that this would be an equitable solution for patients and families.

Ms. Simoes clarified that the Board is not offering to construct the form, but that the Board would like to see a single form with all the necessary elements required for both bills.

Dr. Levine agreed that the intent of both bills could be fulfilled by a single consent form.

Dr. GnanaDev added that there are many entities that create consent forms and the Board would not have to be involved.

Dr. Levine made a motion to support if amended, with the amendment being to work with the author's office to reconcile the two consent forms required in SB 1109 and AB 2741; s/ Ms. Sutton-Wills.

Mr. Earley, a physician assistant and healthcare advocate with the Black Doctors Matter from the American Pain Institute, remarked that there is a disconnect between the Board's enforcement and other government agencies such as the Drug Enforcement Administration, or the Centers for Disease Control and their enforcement. For example, there are doctors getting arrested and are being exploited in media due to the Board's enforcement. He added that there is a lot of misconduct and Members that are appointed do not have the proper education on police matters, which has caused a scapegoat and agencies are disconnected with the public and doctors. Mr. Earley continued that the Governor needs to appoint Board Members that understand what doctors are going through, that they care about their patients, and that they are not God. He requested that he be able to continue this topic on another agenda.

Mr. Andrist commented that there is no green, yellow, or red light indicating the amount of time that the speaker has left. He added that although requests are made to wrap up the comments, this is something that the caller cannot hear, and therefore it is ineffective.

Dr. GnanaDev acknowledged the difficulty of phoning in and invited the caller to join the meeting in person.

Motion carried unanimously (11-0).

Ms. Simoes continued to SB 1163, which requires that a post-mortem examination or autopsy on an unidentified body or human remains must only be conducted by an attending physician or the chief medical examiner, who is a board-certified forensic pathologist certified by the American Board of Pathology. Additionally, the bill requires agencies tasked with specified exhumations to perform under the direction of a board-certified forensic pathologist and makes clarifying changes to update existing law. Ms. Simoes added that the bill is in line with SB 1189 from 2016, which the Board supported and Board staff suggests that the Board take a support position.

Dr. GnanaDev commented that he assumes that this bill came out of the San Joaquin issue between the sheriff and the medical examiner. He added that he strongly recommends that the Board support this bill.

Ms. Sutton-Wills inquired if the bill is designed to prevent independent examiners being hired by a family.

Ms. Simoes remarked that this bill is designed to go in line with SB 1189, clarifying that an autopsy can be performed on an unidentified body or human remains and that it shall only be completed by a physician or chief medical examiner. She added that who hires the professional to perform the task is irrelevant, rather the focus is on who can execute the autopsy.

Dr. GnanaDev pointed out that an attending physician is someone that is trained such as a pathologist or a forensic pathologist compared to a resident physician who is in the process of learning.

Dr. Lewis asked if the bill changes who makes the final decision on the outcome of the autopsy.

Ms. Simoes explained that this bill does not address that topic, rather it focuses on who can perform the autopsy.

Dr. Lewis made a motion to support SB 1163; s/ Dr. Bholat. Motion carried unanimously (11-0).

Ms. Simoes moved to SB 1238, which requires that at the time that the initial patient record is created, the healthcare provider who creates the patient's record provides a statement to be signed by the patient, or the patient's representative that sets forth the patient's right to inspect the medical record, obtain copies of the medical record, and provide a written addendum with respect to any item or statement the patient believes to be incomplete or incorrect. Additionally, the bill requires the healthcare provider to notify the patient no fewer than 60 days prior to the healthcare provider's plans to destroy the patient's medical records and if this is violated, the

healthcare provider may be cited or receive an administrative penalty upon the second and each subsequent violation. Ms. Simoes noted that the Board receives many calls and inquiries from consumers regarding medical records and for this reason Board staff suggests the Board support this bill.

Dr. Bholat inquired about mandated retention schedules.

Ms. Simoes commented that in the Health and Safety Codes there is no requirement for a retention schedule. The Board recommends that a doctor let their patients know, but in terms of a law for general record retention there is nothing.

Dr. Bholat recommended that patients should obtain a copy of their records as they transfer physicians. She also vocalized her concern for this bill in that doctors would be personally responsible, but some are doctors who work for large health systems and this task would fall more to the administrative side of the organization.

Ms. Simoes noted that currently a doctor can move away or retire and there is nothing that protects the patient. She added that if there were a mandate this is something that the health system would help enforce.

Dr. GnanaDev shared that he works for the county and echoed the concern that he does not control the retention of medical records, rather it is the hospital that is responsible, and yet he would be held personally responsible.

Ms. Simoes pointed out that there are requirements for Centers for Medicare and Medicaid Services (CMS) relating to records that need to be retained for specific patients. She added that this bill would be in line with those requirements.

Dr. Levine identified that there is an exemption in the bill for a provider who works in a system with an electronic health record, in which the records are kept in perpetuity. Therefore, this would address the issues presented by Board Members since electronic health records are kept in perpetuity.

Dr. Krauss shared that as a solo practitioner he accumulated a multitude of paper charts, paid substantially for their storage, and other than CMS requirements he relied upon a malpractice company to advise him about the retention of records. He pointed out that there may be solo practice physicians who will have enormous costs to meet the requirements of this law and was inquiring how the costs will be covered.

Ms. Simoes remarked that the bill requires physicians to notify the patient of the retention schedule before destroying the records. There is nothing regarding costs to the physician for storage of the records in the bill.

Dr. Hawkins added that he recommends that patients become stewards of their own records to better understand their family history and background and he recognized the importance of patients having control of their information.

Dr. Yip elaborated that he has been a physician for 30 years and has always made it a practice to give copies of lab work to his patients and in his experience most people who would like to get their records generally do so within the first two or three years. He added that although he does have three storage facilities with records, it would be a large burden on the physician, and their staff. He concluded that it is something that is not practical.

Dr. Lewis shared that he sensed some confusion and requested that the Board not take a position.

Ms. Simoes confirmed that the Board does not have to take a position.

Dr. GnanaDev asked if there is anyone currently working with the author to clean up the bill. He added that many systems now have a patient portal where they can download their information and asked why informing the patient would be necessary.

Ms. Simoes reiterated that the Board receives many calls regarding obtaining a patient's medical record.

Ms. Sutton-Wills commented that from a patient's perspective that this bill is something worth supporting. She continued that she has accessed her electronic records and they require a certain amount of tethering to electronic services, which might not be easy for the public. She detailed that My Chart exchanges the burden to patients to rely on their chart and not everyone is a digital native. Ms. Sutton-Wills concluded that in some version or another this bill should be supported.

Ms. Lawson agreed with Ms. Sutton-Wills and defined that the bill does not require the physician to reach the patient, rather the requirement is that a notification is sent to their last known physical address or email address and if the mail or email goes unanswered for 60 days there is no requirement that records be retained. She added that this is most likely a condition of most of the malpractice insurance companies and that the bill seems quite reasonable and makes clear that the standard applies for all.

Dr. Bholat recognized the concerns of other Members of the Board, but restated that the bill would ask that doctors take responsibility for administrative functions. She offered that an alternative might be to advise patients that their records will not necessarily be retained in perpetuity if they do not attend a big health system and additionally there should be best practices drafted by the Board in order to guide physicians in this area. She concluded that this topic is important and an essential point of view, but that summary documents would be more important than all of the patients' records and therefore it needs more work.

Dr. GnanaDev recommended that an amendment be that the language identify the physician or the health system, since not all physicians control their patients' medical records.

Ms. Simoes reminded the Board that this does not apply to electronic health records and that many of these systems probably have electronic health records.

Dr. GnanaDev asked if this only refers to paper.

Ms. Webb added that as long as the electronic records are kept in perpetuity it would be covered.

Dr. Krauss made a motion to take a neutral position on SB 1238; s/ Dr. Lewis.

Ms. Sutton-Wills asked to put an additional motion on the table. A conversation ensued about motions and voting protocol.

Dr. Yip explained that regardless of the stance of the Board, he would like the authors of the bill to know that there would be no trouble implementing this bill with new clients, but that implementing this with clients that he has had for ten years would be quite difficult. He continued that even going back two to three years would not be as difficult as ten years.

Ms. Kirchmeyer explained that notification would need to be given to new patients as of January 1, 2019, and at the time an old clients' records were being purged 60 days' notice would have to be supplied to their address of record.

Ms. Simoes reminded the Board that if the physician has tried to be in contact with the patient, the physician has done their due diligence.

Ms. Lawson suggested that the analysis of the Board may be too focused on a situation that does not occur all that frequently.

Dr. GnanaDev explained that he is comfortable with a neutral if amended or support if amended position, because there is value in the bill, but there are some issues, too.

Ms. D'Angelo Felmoth, Center for Public Interest Law, voiced her support of the bill and agreed with Ms. Sutton-Wills and Ms. Lawson. She noted that the bill is attempting to fill a huge hole in the law right now that confuses patients, and, as Ms. Simoes shared the Board receives many calls regarding record retention. She detailed some of the exceptions made in the bill, recommended that the Board take a stance, and that Board staff create a podcast discussing this issue.

Ms. Allred, CMA, requested that the Board not take a support position on the bill until the author makes amendments to address the operational and privacy concerns. She noted that CMA is working with the author to ensure that patients are notified of retention periods for medical records, however the bill has redundant notifications prescribed by federal and state laws. She noted that the bill creates a large administrative burden that takes away from the physician's ability to care for their patients and risks private information falling into the wrong hands as notifications are sent out to the last known addresses.

Dr. Levine asked if the bill addresses the death of a physician.

Ms. Kirchmeyer responded that the bill does not address that topic, but the Board advises the executor of that individual's will to contact all the patients and let them know that they have the medical records and that the patients can get them or they will be destroyed. She added that

with the death of a physician sometimes another physician will actually purchase the practice and therefore the records are transferred.

Dr. GnanaDev reiterated that patients should have a right to their records, but that the bill needs to be amended.

Mr. Andrist stated that CMA is interested in protecting doctors and the duty of the Board is to protect patients. He added that he would be looking into Robert's Rules of Order.

Dr. Krauss withdrew his motion.

Ms. Sutton-Wills made a motion to support SB 1238 in concept and work with the author's office to protect patient records; s/ Dr. Yip. Motion carried unanimously (11-0).

Ms. Simoes explained that SB 1336 amends the End of Life Option Act and requires the attending physician request the qualified individual to inform the physician orally or in writing as to the motivating reasons behind the individuals' decision to request the aid in dying drug. The bill specifies what the question has to include, the information collected by CDPH that must be reported, and requires the Board to make the changes to the form. Ms. Simoes noted that Board staff suggests that the Board take a neutral position.

Dr. Lewis made a motion to take a neutral position on SB 1336; s/ Dr. Levine. Motion carried unanimously (11-0).

Ms. Simoes detailed that SB 1495 proposes technical and clarifying changes to SB 512 from 2017. She elaborated that SB 512 discussed non-FDA approved stem cell therapies and required a notice for providers who provided these therapies. SB 1495 specifies that stem cell therapies that require a notice do not include therapies that meet the criteria of the Code of Federal Regulations title 21 sections 1271.10 and 1271.15, which do not require FDA premarket review or clearance, but are still regulated by the FDA or those that qualify for an exception. Ms. Simoes added that the bill also contains other technical cleanup not related to the Board. She reminded the Board that they took a neutral position on SB 512, and therefore Board staff recommends that the Board take a neutral position on SB 1495.

Dr. Lewis made a motion to take a neutral position on SB 1495; s/ Dr. Hawkins. Motion carried unanimously (11-0).

**Agenda Item 21 Update, Discussion, and Possible Action on Recommendations
from the Midwifery Advisory Council Meeting**

Ms. Sparrevohn remarked that the last Midwifery Advisory Council (MAC) meeting was held March 1, 2018, and the MAC voted to recommend the reappointment of Ms. Yaroslavsky to the public member position and to appoint Ms. Breglia to the licensed midwife (LM) member position. She provided details about the professional experiences of Ms. Breglia and noted how she will bring a wealth of knowledge to the MAC. Ms. Sparrevohn commented that this is her last Board meeting and that she enjoyed her tenure on the MAC and appreciated the support that has been provided over the last ten years.

Ms. Sparrevohn asked for a motion to approve an update on revisions to the Licensed Midwife Annual Report (LMAR); an update on the Midwifery Task Force, including any relevant update on regulatory efforts pursuant to AB 1308; outreach opportunities on the hospital transfer form; an update on midwifery related legislation; a selection of a vice chair for the MAC; a discussion and possible adoption of term limits for members of the MAC; a report from the chair; and an update on the midwifery program as agenda items for the next MAC meeting.

Dr. Levine made a motion to approve the agenda items for the next MAC meeting; s/Dr. Bholat.

Dr. Levine thanked Ms. Sparrevohn for her attendance and vigilance.

Ms. Sutton-Wills thanked Ms. Sparrevohn for her comments, education, and information that she has provided throughout the years.

Dr. Krauss thanked Ms. Sparrevohn for her collaboration, which resulted in him learning a lot about midwifery.

Dr. GnanaDev noted he too learned a lot from Ms. Sparrevohn and thanked her for her service.

Mr. Andrist stated that in the Board Member Manual under Meeting Rules Board Policy, it reads that the Board will use Robert's Rules of Orders while not in conflict with state law while conducting a meeting.

Motion carried unanimously (11-0).

Agenda Item 22 Discussion and Possible Action on the Midwifery Advisory Council Appointments Set for Expiration on June 30, 2018

Ms. Alameda commented that at the March 1, 2018 MAC meeting the MAC recommended to appoint Ms. Breglia for the LM member position and reappoint Ms. Yaroslavsky to the public member position. Ms. Alameda requested a motion to approve Ms. Breglia.

Dr. Bholat made a motion to approve Ms. Breglia for the LM member position; s/Dr. Yip. Motion carried (9-0, Hawkins and Lewis absent).

Ms. Alameda requested a motion to approve Ms. Yaroslavsky to the public member position.

Ms. Lawson made a motion to approve Ms. Yaroslavsky for the public member position; s/Dr. Krauss. Motion carried (9-0, Hawkins and Lewis absent).

Agenda Item 23 Discussion and Possible Action on Revisions to the Licensed Midwife Annual Report

Ms. Alameda stated that pursuant to Business and Professions (B&P) Code section 2516, an LM who assists or supervises a childbirth that occurs in an out of hospital setting must report specific data elements to the Office of Statewide Health Planning and Development (OSHPD) by March 30 of each calendar year. She commented that OSHPD is required to maintain the confidentiality of the LM data and report only aggregate information to the Board. Ms. Alameda stated that AB 1308 amended B&P Code section 2516 to allow the Board, with input from the MAC, to revise the data collected to better fit the needs of the midwifery community. As a result, a task force was created to review the current reporting requirements and to work with Board staff, the midwifery community, and other interested parties to determine the data elements needed to revise the LMAR reporting tool.

Ms. Alameda explained that Board staff created a new form to incorporate the proposed changes to the current version of the LMAR. The new form is consistent with B&P Code section 2516 and continues to include all data elements outlined in the law. She detailed that the proposed changes add additional information regarding vaginal births after caesarian section and collects information on maternal fetal and infant death in a better manner. Ms. Alameda added that the form will be turned in electronically and the system will assist the midwife through the questionnaire based upon the way they answer the questions. The new form will capture more information and new information based upon what happens per birth, which will educate the Board on outcomes and assist the midwifery community, the public, and policymakers.

Ms. Alameda thanked the LMAR taskforce, Board Members and staff for their assistance with this project. She requested a motion to approve the changes to the LMAR, to authorize staff to make non-substantive changes, and to direct staff to update the data system and work with OSHPD to begin the new data reporting for the 2018 reporting period.

Dr. Levine made a motion to approve requested changes to the LMAR, authorize staff to make non-substantive changes, and direct staff to update the reporting for the 2018 reporting period; s/Ms. Sutton-Wills. Motion carried (10-0-1, Hawkins abstained).

Agenda Item 11 Discussion and Possible Action on Approval of Mercy In Action College of Midwifery

Ms. Alameda explained that Mercy in Action College of Midwifery applied to be recognized as a midwifery program. Specifically, midwifery educational programs must meet the requirements of B&P Code section 2512.5 and 2513 and California Code of Regulations (CCR) section 1379.30. She explained that a program seeking recognition must provide a three year post-secondary midwifery education program accredited by a Board approved accrediting agency recognized by the US Department of Education. The program must provide didactic and clinical education on all subjects outlined in statute and regulations, and clinical education must be verified by a licensed midwife, certified nurse midwife, or a physician and surgeon. Ms.

Alameda explained that the Midwifery Education Accreditation Council (MEAC) is an independent non-profit organization recognized by the US Department of Education as an accreditation agency of direct entry midwifery programs and approved by the Board. Ms. Alameda elaborated that Mercy In Action, a non-profit educational institute, was accredited by MEAC on March 9, 2017, for five years. She added that Mercy In Action provides a three-year midwifery education program with a curriculum that meets Board statutes and regulations. In a review of documentation submitted by Mercy In Action, Board staff determined all requirements outlined in law to be recognized as a midwifery program were met. Ms. Alameda requested a motion to approve Mercy In Action as a midwifery program.

Dr. Krauss made a motion to approve Mercy In Action as a Midwifery program; s/Dr. Lewis. Motion carried unanimously (11-0).

Agenda Item 12 Discussion and Possible Action on Approval of National Midwifery Institute, Inc., Midwifery Licensure Challenge Mechanism

Ms. Alameda shared that that National Midwifery Institute (NMI) applied to be a recognized challenge program. She noted that the program needs to comply with all of the statutes and laws. In Septmeber 2002 the Board approved NMI's three-year midwifery education program and in February 2006 the Board approved NMI's challenge program. Ms. Alameda noted that effective January 1, 2015, the law was amended to indicate that new licensees shall not substitute clinical experience for formal didactic education. She added that after the change in law the Board contacted the NMI and requested documentation to verify if their existing program complied with the new law. She commented the NMI provided the Board with an updated curriculum, a new method to evaluate student's prior education, and a detailed report outlining the process for applicants to document and demonstrate their eligibility to participate in the challenged examination. Ms. Alameda mentioned that after a review of the documentation submitted, Board staff determined that NMI met the requirements outlined in law to be recognized as a Midwifery Challenge program. She requested a motion to approve the program.

Dr. Lewis made a motion to approve National Midwifery Institute challenge program; s/Dr. Krauss. Motion carried unanimously (11-0).

Agenda Item 13 Discussion and Possible Action on Approval of American Medical Certification Association as a Medical Assistant Certifying Organization

Ms. Alameda detailed that the American Medical Certification Association (AMCA) applied to the Board to be an approved medical assistant certifying agency. CCR section 1366.31 states in part that an organization that certifies medical assistants may apply to the Board for approval and that approval is subject to the certifying agency being able to demonstrate compliance with the requirements outlined in the law. She commented that the AMCA is a non-profit, tax-exempt organization established in 2010 and was accredited in October 2015 by the Institute for Credentialing Excellence to offer certifying examinations for medical assistant. Ms. Alameda

pointed out that after a review of the documentation submitted by AMCA, Board staff determined all regulatory requirements are met. She requested a motion to approve AMCA.

Dr. Levine made a motion to approve the American Medical Certification Association; s/Dr. Krauss.

Dr. Yip noted that in the training given by the program, there was quite a bit of time dedicated to phlebotomy. He added that it might not be a skill that is highly utilized in the field.

Ms. Kirchmeyer noted that a medical assistant can draw blood as long as they have the additional training that is outlined in the regulations.

Ms. Webb confirmed that there are only ten hours of training that are required by regulation plus ten hours needed for demonstrations.

Dr. Yip commented that the program invests roughly 25% of the time for phlebotomy, which is extensive if it will not be used later.

Ms. Webb added that many offices do use their medical assistants to draw blood.

Dr. Yip stated that although he does agree with this, in the future the school should invest time in training something else.

Dr. GnanaDev remarked that doctors undergo four years of medical school, but what is practiced in the field may vary.

Motion carried unanimously (11-0).

Agenda Item 14 Discussion and Possible Action on Recommendation from the Special Faculty Permit Review Committee

Dr. Bholat stated that there was a teleconference Committee meeting on March 8, 2018, to review and discuss Dr. Bertaina, an applicant for a special faculty permit appointment with Stanford University School of Medicine. She noted that Dr. Bertaina's specialty is in the area of pediatrics, specifically hematology, oncology, and stem cell transplantation. She discussed Dr. Bertaina's clinical research goals and previous experience in the medical field. Dr. Bholat highlighted some of Dr. Bertaina's accomplishments such as receiving distinction in pediatrics with expertise in the field of t-cell depleted haplo hematopoietic stem cell transplantation, which is currently only performed in only a few centers worldwide and was responsible for enabling a hospital, Bambino Gesù, in Rome, Italy, to have the largest number of children transplanted with hematopoietic progenitor stem cells in Europe. She remarked that if approved by the Board, Dr. Bertaina will hold a full-time faculty appointment as an associate professor of pediatrics at the university, provide clinical care to children with the treatment of malignant and nonmalignant diseases, focus on the management of pediatric patients receiving haplo identical stem cell transplantation, provide inpatient consultation to stem cell transplantation at the Lucile Packard Children's Hospital, and continue her research. Dr. Bholat concluded that the Committee reviewed the application and qualification of Dr. Bertaina and

recommends that the Board approve this special faculty permit appointment, according to B&P Code section 21681(a)(1)(b).

Dr. Bholat made a motion to approve Dr. Bertaina for a Special Faculty Permit; s/Dr. Hawkins. Motion carried (10-0, Levine absent).

Agenda Item 24 Executive Management Reports

Ms. Kirchmeyer notified the Board that staff is still unable to obtain any detailed budget documents due to DCA switching over to a new accounting database and currently it is uncertain as to when the reports will be received. She noted that until the reports are available, Board staff is unable to provide information regarding the Board's expenditures for fiscal year 2017/2018. She added that as the end of the fiscal year approaches, Board staff is hopeful that DCA will be able to provide reports so Members can be updated with spending data for the fiscal year. Ms. Kirchmeyer pointed out that the most up-to-date fund condition indicates that the Board will be at 5.4 months reserve at the end of this fiscal year, however with the general fund loan being repaid this year, projections are at 1.7 months at the end of fiscal year 2019/2020.

Ms. Kirchmeyer commented that Board staff may need to relocate offices in Sacramento. She added that Board staff continues to be in negotiations with the landlords and are currently awaiting information regarding the status of the relocation from the Department of General Services and DCA. She confirmed that as soon as there is a definite answer as to whether Board staff will need to move, Board Members will be updated, but current outlook is that Board staff will stay in the current location.

Ms. Kirchmeyer pointed out that there is a new report regarding investigation timeframes based upon the type of investigation included in the Board packet. She added that the chart provides each case type broken down for the last three fiscal years. She stated, as previously identified by Ms. Nicholls, the inappropriate prescribing cases take the longest to process.

Ms. Kirchmeyer mentioned that the Department of Justice (DOJ) has been working on the implementation of AB 40, which requires DOJ to integrate CURES with health systems' electronic records. In order to comply with the law, the DOJ has been working on the architectural diagram. She noted that the law stipulates that the integration be available by October 2018 and the DOJ should be able to make the deadline. Ms. Kirchmeyer added that as of April 2, 2018, the DOJ certified the CURES system for use, and the mandated requirement for CURES use for physicians will begin on October 2, 2018. Additionally, the Board finalized a website that will be used as a template and will have links from the CDPH, DOJ, and DCA websites. She continued, that Board staff is working on a flyer that will be provided to prescribers, but in the interim, there is a handout that is currently being disseminated that outlines the requirements of law. Ms. Kirchmeyer confirmed that once the new flyer is available, she would share it with Board Members, as well as other partners of the Board to provide to health systems, and Board staff will kick off an outreach campaign. Ms. Kirchmeyer thanked Ms. Meyer, the Board's newest graphic designer, who worked extremely hard to launch the new website, design the new flyer, and create the new logo.

Ms. Kirchmeyer added that based upon the most recent statistics in CURES, there are 94,658 physicians registered in CURES and there were almost 284,000 patient activity reports requested in February alone.

Ms. Kirchmeyer shared that she would attend the Substance Abuse Coordination Committee meeting at DCA. She explained that the Committee is made up of executive officers from every healing arts board, a designee of the Department of Health Care Services, and the Director of DCA. She noted that in 2011 the Committee adopted all the current Uniform Standards, however a recent bill required the Committee to look at Uniform Standard #4, which establishes a requirement for biological fluid testing. Ms. Kirchmeyer detailed that the upcoming meeting would be to discuss Uniform Standard #4 and determine if any changes are needed. If any changes occur to the Uniform Standards, it will impact the regulations on the Physician Health and Wellness program. She added that the regulations for the Physician Health and Wellness program were submitted to DCA and are under review, which could take six months to a year. She commented that after DCA review, it will be provided to the Office of Administrative Law. Ms. Kirchmeyer clarified that if at any time during this process the Uniform Standards change, the Board will need to analyze the regulations and make adjustments as necessary.

Ms. Kirchmeyer communicated that the following week was the Federation of the State Medical Board's (FSMB) annual meeting, and although Board staff are unable to attend the House of Delegates meeting in North Carolina due to travel restrictions, the meeting is available via teleconference. Although some value will be lost since Board staff will not be there in person, FSMB has allowed the Board to opine on the policy development for the Federation. She added that there is an opportunity for all Members that would like to watch the opening sessions and a link will be provided.

Dr. Krauss expressed his regret that the Board is not able to attend the conference, since he feels that valuable information can be obtained, and much can be gained from collaboration. He is also concerned that the Board will not be able to travel to the meeting the following year in Texas, due to the same travel restrictions. He explained how the travel ban may as be a disservice for consumers in California.

Ms. Sutton-Wills voiced her support for the courage of the Legislature to limit travel as appropriate in order to further support equality for California and other states.

Dr. Yip asked if at the next meeting with CURES stakeholders it could be expressed that CURES should encourage if not require that hospital administration, especially the emergency room department, run a CURES report for every patient admitted to help with medication reconciliation. He noted that most pain medication starts from the hospital.

Ms. Kirchmeyer answered that this feature should be available by October.

Dr. GnanaDev added that there is tremendous value obtained from attending the Federation meeting. He added that in being the largest medical board in the country and with one out of six doctors in the country having a California license, it is extremely important that the Board to be part of the Federation.

Ms. Hollingsworth, Patient Safety Action, noted that on January 17, 2017, the Board announced that nearly 7,000 disciplinary documents had been restored to the Board's website to be in compliance with the Eggman bill of 2014. She added that at that time there were also about 15,000 outstanding documents from the Board's website. She inquired if there was an update to this project, specifically how many have been uploaded and how many are outstanding. Ms. Hollingsworth explained that information regarding the discipline of doctors is invaluable to consumers.

Dr. GnanaDev asked that Ms. Hollingsworth work with Board staff to obtain more information regarding her inquiry.

Ms. Matsubara, CMA, acknowledged the Board's past outreach regarding CURES and expressed interest in collaborating with the Board on physician outreach and education efforts, specifically with regard to the implementation of SB 482.

Ms. Monserratt-Ramos, Patient Safety Action Network, noted her disappointment that as a member of the Physician Wellness Program Work Group, she was not notified about the Substance Abuse Coordination Committee meeting. She added that at the last meeting she inquired if the next meeting would be teleconferenced. She detailed her personal connection and history with the project and expressed the importance for all consumers. Ms. Monserratt-Ramos requested that ample notice be given prior to the next meeting and that a teleconference line be set up for the benefit of consumers.

Agenda Item 25 Update from the Department of Consumer Affairs, which may include updates on the Department's Administrative Services, Human Resources, Enforcement, Information Technology, Communications and Outreach, as well as Legislative, Regulatory, and Policy Matters

Mr. Le announced the onboarding of a new Deputy Director for Legislative Affairs, Mr. Cuevas Romero, who began last month. He detailed Mr. Cuevas Romero's work experience prior to joining DCA.

Mr. Le remarked that on April 30, 2018, DCA will host the second Director's Quarterly meeting with board executive officers and bureau chiefs. The meetings provide an opportunity for staff to vocalize the various issues at the various boards and bureaus.

Mr. Le detailed that on April 10, 2018, DCA held the first Licensing and Enforcement Workgroup meeting. He added that there were over 60 board and bureau staff that attended and feedback provided after the event proved that it was a productive first meeting that will help the department establish licensing and enforcement standards and best practices. He announced that a follow up meeting will be held in May to focus on enforcement.

Mr. Le explained that DCA's inaugural cohort from the Future Leadership Development Program graduated on March 12, 2018. He added that the individuals completed an eight month leadership program in which they participated in special leadership development

exercises, worked on special projects, and developed new working relationships. He noted that information about the next cohort will soon be disseminated.

Mr. Le added that DCA offers additional training and team-building programs designed for board members, committee members, and executive level bureau and board staff. Specifically, the courses are designed to improve interaction and facilitate cohesiveness within groups, provide a safe environment for communication, and provide tools and techniques to build positive relationships in the work environment. He invited those that are interested to contact DCA for more information.

Mr. Le reiterated to the Board that on April 23, 2018, DCA will host the Substance Abuse Coordination Committee. He added that SB 796 mandates that the Committee examine Uniform Standard #4, regarding the drug-testing standard for substance-abusing licensees in a diversion program or in a program that has adopted the Uniform Standards. The Committee is tasked with determining if the existing criteria needs to be updated based on recent developments in testing research and technology. He clarified that the Committee needs to report to the Legislature by January 1, 2019.

Mr. Le reminded the Board that upcoming Board Member Orientation Trainings will be held on June 6, 2018, September 18, 2018, and December 5, 2018. He explained that it is a one-day training in Sacramento, which details the important functions and responsibilities of board members and is required within one year of appointment. He remarked that registration is available online.

Dr. Hawkins asked since not all of the comments and feedback solicited from the implicit bias training were glowing if there will be additional training offered by another vendor.

Ms. Kirchmeyer answered that a new vendor has been recommended and this will be implemented in the next round of training, which is every two years. Additionally, the current training is being finalized and will be available online.

Agenda Item 27 Review, Discussion, and Possible Action on *Guidelines for Recommendation of Cannabis for Medical Purposes*

Ms. Lawson provided background about the *Guidelines for the Recommendation of Cannabis for Medical Purposes*, noting that the Marijuana Task Force held an interested parties meetings to ensure the Board heard from all stakeholders and took all comments into consideration. Then at the October 2017 Board meeting, the Board approved the guidelines. She added that since the adoption of the guidelines, a few things have occurred, requiring the Marijuana Task Force to review and revisit the guidelines. First was a change in the federal administration, second the Board received comments from individuals regarding the Decision Tree that was attached to the guidelines in the Appendix, and third the Board received comments regarding the use of cannabis by pregnant or nursing women.

Ms. Lawson explained that the Task Force met with Board staff to discuss all of the new items and based upon that meeting, and pursuant to the information that the Board received from interested parties, the Task Force determined that changes needed to be made to the 2017

version of the guidelines. She pointed out the first edit on the cover page and the first page of the document, which indicates the date of the adoption of the revisions. She added that the second change is on BRD 27-3, where the USDOJ's cannabis enforcement policy from August of 2013 was removed. Ms. Lawson elaborated that the Task Force believed it was best to not put any specific information regarding the federal policies relating to cannabis in the guidelines, but rather to encourage physicians to be aware of the current federal policies. She remarked that the third change is on BRD 27-5, where minor technical edits were made and a footnote added regarding the risks of cannabis use on a fetus or breastfeeding infant. Ms. Lawson remarked that the Task Force determined that the guidelines should reference the American College of Obstetricians and Gynecologists Committee opinion regarding the recommendation of cannabis during pregnancy and lactation. She detailed that the fourth edit is on the Decision Tree, on BRD 27-8, correcting the incongruences between the guidelines and the Decision Tree. Previously, the Decision Tree stated that a physician only had to prescribe cannabis after trying a standard prescription, however the Board's guidelines state that a patient did not have to fail on standard medications in order for a physician to recommend the use of cannabis. Therefore, the Task Force revised the Decision Tree based upon this input. Ms. Lawson reminded physicians that they can use the Decision Tree as a guide when determining whether they should recommend cannabis for a patient, but the standard of care prevails in all situations.

Ms. Lawson requested a motion to approve the revised guidelines, direct staff to post the revised guidelines on the Board's website, and notify physicians about the revised guidelines. Dr. Krauss shared that he had to recuse himself from matters in relation to cannabis coming before the Board.

Dr. Levine made a motion to approve the revised guidelines, direct staff to post the revised guidelines on the Board's website, and notify physicians about the revised guidelines; s/ Dr. Lewis.

Dr. Bholat asked about neuro cognitive development issues with regard to adolescent patients.

Ms. Kirchmeyer answered that the guidelines do not get into to that specificity. She added that the guidelines are a high level overview and are based off of Federation of State Medical Boards' guidelines.

Dr. Bholat detailed that she looks at the guidelines and the Decision Tree with an algorithmic approach to medicine and for this reason, there should be a section that applies to adults and a separate section for pediatrics. She concluded by stating this separation is something that needs to be part of that document.

Ms. Kirchmeyer responded that this is something that can be analyzed for the future, since inevitably there will be future revisions. Additionally, this can be implemented once there is more research.

Dr. Yafai noted the changing laws regarding cannabis and how this has changed the overall culture of cannabis. She compared cannabis consumption to alcohol consumption, but added that physicians are not required to write agreements or contracts with their patients about

alcohol consumption, unless the patient is in a drug or rehab program. She added that the cannabis dispensaries are also not asked to provide an agreement or contract for customers, and therefore a burden is being placed on physicians who are asked to execute the agreements and contracts. Dr. Yafai explained that a better approach would be to educate physicians.

Dr. Yafai elaborated that the Board is leading the path on how to educate physicians both in the United States and worldwide. She hopes that a positive doctor-patient focused relationship can be fostered as opposed to creating an undesirable budtender, patient relationship. She added the importance of this type of relationship for the pediatric and elderly population, since they are actively being targeted by the cannabis industry. Her fear is that the proposed agreement will send the wrong message to physicians and patients and may encourage patients to seek guidance from the young budtender who may know little about medicine in a patient's medical history.

Dr. Yafai agreed with Dr. Bholat, but added that an education pathway is imperative for doctors. Additionally, she noted there that there is a lot of research both nationally and abroad that has shown proof of use, when it should be used, and when it should not be used.

Mr. McGregor detailed his history with prescription opioids and current use of cannabis that has weaned him off prescription opioid use. He added that his doctor, Dr. Yafai, is available at any time and is his personal hero for helping him through this time. He detailed that it has helped him in many ways and has been a positive tool to use.

Ms. Lawson noted that no agreement is in the guidelines.

Mr. Britt, Director of the Association of Patient Advocates, who is also on the panel of experts for Los Angeles County Court system shared that he has epilepsy and has suffered from grand mal seizures, but has been seizure free for the last ten years after using cannabis. He explained that had his doctor not been afraid to talk to him about using cannabis he might have avoided over 60 grand mal seizures, each one threatening his life. Mr. Britt pointed out that if the guidelines advertise that cannabis is a last resort it will continue the fear that currently is held by both doctors and patients, and stifle the doctor patient relationship. He walked through the positive effects that cannabis has had on patients and noted that restricting a doctor's ability to talk to patients about use of cannabis is detrimental to consumers.

Dr. GnanaDev specified that the Food and Drug Administration just approved the use cannabis for epilepsy.

Motion carried (8-0-2, Krauss and Levine abstained, Lewis absent).

Agenda Item 28 Update from the Application Review and Special Programs Committee

Ms. Lawson remarked that the Application Review and Special Programs Committee met that morning. She noted that Dr. Hawkins, Dr. Yip, and herself were present and established the quorum for the meeting. During closed session Ms. Alameda presented two physician and surgeon applications and the Committee made recommendations to the Chief of Licensing.

Agenda Item 29 Vertical Enforcement Program Update from the Health Quality Enforcement Section

Ms. Castro shared that there have been positive impacts in Board investigations due to the staffing increases at the Health Quality Investigation Unit (HQIU). She noted that her staff continues to work through the backlog of investigations and work as fast as possible in the Health Quality Enforcement Section to process accusations accepted for prosecution and petitions to revoke probation. She detailed that she continues to meet with HQIU on a regular basis and the Supervising Deputies Attorney General meet with their counterparts in each of their cities to ensure that they are not only addressing big-picture policy issues, but also granular level issues such as evidence collection in investigations, witness locations, subject interviews, expert reviews, evidence, and timelines. Ms. Castro commented that although timelines are priority, quality cannot be sacrificed and added that ultimately what really drives the standards is identifying the most important cases to prosecute, including interim suspension orders, mental health evaluations, and bail recommendations at criminal courts.

Ms. Castro pointed out that they also meet on a regular basis with Ms. Delp to work on closures and dispositions. She thanked Ms. Delp and Ms. Piva for their collaboration on helping to close cases that need to be closed and taking a look at cases that need to be revisited.

Dr. Lewis commented that the Board is judged by numbers and backlog, and for this reason, he would like more information with regard to statistics.

Ms. Castro specified that accusations from year to year have gone down from 120 days to 64 days. She added that in terms of prosecutions, the public is getting notice of completed investigations that have been accepted for prosecution at a record pace. She expressed her pride in that 64 days completion rate, since refers to calendar days and is reflective of the staff that has been working weekends and after hours.

Ms. Castro added that in regard to investigations, her unit is bound by HQIU and she does not manage that staff and vice versa, but there is strong effort to collaborate and work as a team. She explained that the cases they receive are complicated, but if there were to be a side-by-side comparison, the Board is superior in all respects to other DCA clients in how cases are managed.

Ms. Castro elaborated that she and Ms. Nicholls have been working within the context of staffing voids, in a system that does not allow them to push any harder, and overall she is very proud of their work. She admitted that she is aware that the Board is bound by timelines, since the Board needs to explain to consumers what is taking so long. Conversely, her team needs to ensure that every accusation that is executed is based on accurate information. She remarked that 99% of the time it is done properly. Ms. Castro commented that overall there are very few withdrawals and dismissals and that it is something to celebrate. She concluded by offering to provide any numbers or statics that are needed to answer questions and to provide further updates.

Dr. Lewis mentioned that he was just questioned about this specific area recently when he was in the Governor's office. He added that the people that are asking do not take into consideration factors that may cause delays and genuinely want to know if the backlog is decreasing.

Ms. Castro explained that last year her team went \$1.5 million over the \$13.5 million dollar budget for legal services allotted for the Board. She noted that although her staff does go above and beyond, it has been nine years since staff has been added. She recommended that if the Members would like to see more results, staffing should be looked at, which would necessitate increasing the legal services budget.

Dr. GnanaDev clarified that the reasoning behind Dr. Lewis' questioning is due to the fact that during the Senate Rules Committee interviews a question is why the enforcement process is so lengthy. He added that if all parties continue to work as a team, things can get resolved.

Dr. Yip added that he has sat on collaborative workshop meetings with Ms. Castro, Ms. Nicholls, and staff and everyone is seeking ways to expedite and shorten the whole process. He asked that at the next meeting an administrative law judge be invited. He explained that their role is pertinent in the timeline process since they control the hearing schedule.

Ms. Castro noted that she meets with several judges regarding this issue and the Board is different since there is a dedicated hearing panel for it.

Ms. Lawson recommended the use of a one-page graphic to help the public understand the process of a complaint.

Ms. Kirchmeyer answered that there is a graphic that details the disciplinary process on the Board website, but in order to help the public, Board staff can add timelines.

Ms. Lawson added that the graphic should be user-friendly.

Ms. Castro noted that at the last Enforcement Committee meeting in January 2018 a flow chart was provided to the public. She detailed that the chart does not explain in the last five years patient complaints have gone up from 6,000 to 8,000, with no increase in staff. She commented that it might be helpful if the public better understands due process.

Ms. Lawson clarified that she and other Members of the Board understand, but the public would be better served if they could understand the mystifying parts of the process.

Ms. Castro reminded the Board the statics from the AG's Office are reported every January. She explained that the first report was already published and is available on the AG's website.

Mr. Andrist cited that last reports show that there were close to 10,000 complaints received, but that most of the complaints were closed and for this reason he wonders if

the Board has the ability and the money to process the complaints. He questioned how many complaints are just being thrown out versus being processed. He noted that it is bizarre that of all the complaints coming in 70% to 80% are not worth processing. Mr. Andrist shared his personal story of his complaint getting thrown out when he thought it should have been processed.

Mr. Andrist agreed with Ms. Lawson that every single complaint should have a timeline and BreZE should tell the consumer the status of the complaint during the process. He added that there is a lack of transparency and no information given.

Agenda Item 30 Update from the Attorney General's Office

Ms. Castro announced the addition of a new Deputy Attorney General in the San Francisco office, Rebecca Wagner, who joined from the San Francisco District Attorney's Office. Ms. Castro detailed some of Ms. Wagner's previous experience.

Agenda Item 26 Presentation on the Use and Impact of Cannabis to Patients

Dr. GnanaDev introduced Dr. Grant, a neuro psychiatrist whose research and clinical interests have focused on the effect of various diseases and drugs and the brain and behavior. He added that Dr. Grant is the Director of State of California's Center for Medicinal Cannabis Research (CMCR).

Dr. Grant began the presentation by taking a look at cannabis, the derivatives, and branched into the history of cannabis. He continued to elaborate upon main events that have reawakened interest in cannabis in recent years and what states have taken legal action to make cannabis a legal substance.

Dr. Grant provided an explanation of the distribution of the CB 1 receptors and explanation of how the CB receptors act as circuit breakers or modulators for other neurotransmitters. He also provided the history of marijuana compounds and the research done by Dr. Mechoulam. He noted that in the 1990s research suggested that there were promising clues such as appetite stimulation, nausea, vomiting, and analgesia in terms of possible medicinal action of cannabis.

Dr. Grant explained that California has been a leader in the field, and discussed key events that led to the development of CMCR. After the establishment of CMCR two main areas of research were neuropathic pain control and control of movement problems in multiple sclerosis. He went into great detail as to how the regulatory process posed many obstacles with the various studies that have been conducted by CMCR. Dr. Grant noted that through this time he was surprised that in all the studies, the results were consistently positive, there was evidence of efficacy, and the side effects were modest.

Dr. Grant extrapolated upon reports from the National Academies of Science, Engineering, and Medicine in 2017 that evidenced the therapeutic benefits of cannabis. He noted that their conclusion was that there is substantial or conclusive evidence of cannabinoid efficacy in chronic pain, spasticity, control of nausea, and moderate

evidence in improving sleep particularly in people with medical problems that are complicated by pain. He added that although cannabis may be effective, smoking marijuana as medicine presents challenges and discussed the various ways to ingest cannabis along with their pros and cons. Dr. Grant also discussed CBD and provided an explanation of research conducted, where it comes from, and suggested application. Dr. Grant concluded by presenting the potential public health benefits that can be gained from cannabis, but also noted the potential harms. He added that from a medical standpoint, cannabis may engage a system in the human body that has not been targeted by other medications and may provide another avenue of treatment.

Dr. GnanaDev noted that in terms of HIV pain there was a statistically significant impact in the short term, but it came back as a placebo in the long term.

Dr. Grant responded that it was a short-term study and then the administration ended, so what Dr. GnanaDev was pointing out is the effect on the patient once the medication was stopped.

Dr. GnanaDev inquired about the level 1 evidence for cannabinoids and their symptoms.

Dr. Grant referred to the National Academies' report that stated strong and conclusive evidence that it would be level 1 or level 1.5, but he added that there are not enough long term randomized control trials to answer that question. However, for neuropathic pain, control of severe muscle spasms, and multiple sclerosis, science is close to that level of evidence now.

Dr. Bholat asked about stem cell patients that are smoking marijuana and have issues with fungal transmission.

Dr. Grant acknowledged that this is an important conundrum. He noted that under proper storage conditions there is no evidence that these marijuana infections have developed, however when it is bought from the store, the consumer does not know how it was stored or harvested. Therefore, it is a danger that patients should understand. Dr. Grant added that now under the California legislation there will be testing for both pesticides and fungi.

Mr. McGregor discussed his personal conditions and noted how with proper use and application of cannabis he has gotten better. He added that unlike alcohol, no one has died from cannabis. He added that cannabis should be legalized in all states and that without it, people are locked into their states' restrictions and the flow of commerce is restricted. Mr. McGregor explained that the World Health Organization is looking into rescheduling cannabis worldwide and the FDA is looking into the same for the United States.

Dr. Yafai noted that there are two FDA approved medications that are legal and non-lethal. She added that there are non-smokeable alternatives, and that it is time that physicians receive more education. Specifically, cannabis based medications both good and bad are now available everywhere and are being recommended by untrained uneducated budtenders. She explained that there is a need for the Board to stand up and guide the public, especially since the Board represents the largest state that has

legalized cannabis. Dr. Yafai added that AB 710 and cannabis education is an issue that should receive support. She urged the Board to form an educational path for all physicians since it is an important need in the community. She also requested that a medical committee be created and that the Board not defer to the Bureau of Cannabis, a non-medical entity.

Mr. Blatt explained that he is originally from Israel where they have a multidisciplinary geriatric centers that integrate and treat elderly people using cannabis. He shared some of the findings of patients that had been treated for over six months. Specifically, over 87.5% of patients reported pain reduction in the reported pain and the level was reduced two and a half of ten when the median pain was previously ten. He added that over 50% of the patients got off opioids, 25% reduced their dosages, over 50% reported an improvement of appetite, and 17% reduction in the total amount of medication used. Mr. Blatt commented that cannabis has a multi-system effect, 93.8% of patients reported an overall improvement in their condition. He noted that data should be collected to help people and allow patients to see that there is a better way to get old that does not imply taking horrible drugs that cause side effects.

Agenda Item 31 Vertical Enforcement Program Update from the Health Quality Investigation Unit

Ms. Nicholls, HQIU Deputy Chief, introduced Los Angeles metro area Commander, Mr. Pulido. She noted that Mr. Pulido oversees the Los Angeles HQIU field offices located in San Dimas, Glendale, Valencia, and Cerritos.

Mr. Pulido reminded the Board that at the last Board meeting HQIU announced that there were seven sworn investigators starting in January 2018, and as of now there are an additional six investigators starting in April. He noted that four of the six currently possess the posts basic certificate and do not require an academy certificate. Positions are being filled in the Glendale, Sacramento, Tustin, Concord, and San Dimas field offices. He pointed out that with the newly hired staff, there are only 18 investigator vacancies, which is a 23% vacancy rate. Additionally, of the 18 vacancies 15 additional candidates have been given conditional job offers and are completing the last phase of the background process. Mr. Pulido remarked that HQIU anticipates the clearances within 30 to 60 days. In terms of the three remaining positions, HQIU has gone through phase one of background process with seven candidates. He added that there are also 17 limited term position special investigators working in HQIU field offices to assist with the workload.

Mr. Pulido detailed that in February 2018 the Division of Investigation held its first annual Chief Star Awards ceremony that recognized DOI employees for their work performance. He noted that of the 11 awards presented, a total of nine awards were given to HQIU staff. He thanked Ms. Kirchmeyer, Ms. Lally, and Dr. Yip for participating in acknowledging the employees.

Ms. Nicholls cited that in the Board materials, specifically, BRD 24B-9, the chart indicates the average number of days to complete an investigation in HQIU, which decreased in March and this was the lowest in the last nine months. Although it is only an incremental change, HQIU expects more dramatic improvements.

Agenda Item 18 Update, Discussion, and Possible Action on Recommendations from the Public Outreach, Education, and Wellness Committee

Dr. Hawkins commented that the Public Outreach, Education, and Wellness Committee met the day prior. He explained that a presentation was given by Board staff on the new iOS application, which will allow consumers to follow physicians and will notify the consumer if the physician's status changes. He noted that it is the first application of its kind, and it is very consumer-friendly.

Dr. Hawkins added that the Committee heard a presentation from Mr. Villatoro about the Board's outreach and communication plan. He noted that the plan highlights several strategies such as social media podcasts, marketing and rebranding of the Board's newsletter, logo, and website. Other projects included refreshing the "Checkup on Your Doctor's License" campaign, expanding communications with community organizations, and the development of a daily blog. Dr. Hawkins explained that plans will help the Board achieve the goals in the strategic plan.

Dr. Hawkins mentioned that the Committee received an informative presentation on Alzheimer's disease, detection, diagnosis, and disease management from Mr. Kelly from the Alzheimer's Disease Program at CDPH and Dr. Kremen from the Mary S. Easton Center for Alzheimer's Disease Research at the University of California, Los Angeles. He explained that the presenter discussed the updated guidelines for Alzheimer disease management, the Alzheimer's clinical care guidelines, and the early detection and diagnosis toolkit.

Agenda Item 15 Update on the Health Professions Education Foundation

Ms. Lawson thanked the Board for the opportunity to serve as a representative on the HPEF and expressed her excitement that Dr. Hawkins was appointed. She added that on March 7, 2018, HPEF held a meeting and there will be another meeting on May 16, 2018, in San Francisco. She added that the 2017/2018 Stephen M. Thompson Physician Corps Loan Repayment program application cycle ended on January 31, 2018, and there was a total of 403 applications received and 256 were deemed to be eligible. Ms. Lawson remarked that the selection committee awarded 43 physicians practicing in medically underserved facilities throughout California.

Ms. Lawson commented that HPEF also administers the Mental Health Loan Assumption program, which is a state administered workforce education training program. Annually, the program has a budget of \$10,000,000 and is scheduled to sunset at the end of fiscal year 2017/2018. She added that the program encourages mental health providers to practice in the public mental health system by providing recipients with up to \$10,000 in exchange for a 12-month service obligation. Ms. Lawson detailed that in fiscal year 2016/2017 the program awarded over 1,500 individuals a total of \$13,000,000 and as of March 2018 the program was projected to award approximately 1,300 individuals, which is a total of \$12,900,000. She noted that since it is scheduled to sunset, there will potentially be a gap in these services.

Ms. Lawson commented that the HPEF Board of Trustees has also reestablished a development committee and is reviewing a proposal for a development consultant to assist with a new strategic fundraising plan for HPEF.

Dr. GnanaDev shared that he recently learned that a first-year resident at his hospital mentioned that her student loans were \$600,000 and the average is usually about \$300,000 for anyone graduating as a medical doctor or doctor of osteopathic medicine. He noted that it is important to get people entering the medical field to the right places and matched up with loan payment programs.

Dr. Bholat inquired what the top reasons are for denial on the HPEF applications.

Ms. Simoes answered that it is a point based system, so the applicant can score no points or one point on most of the questions. She added that the reviewers are looking at the questions and ensuring that the question is answered. She concluded that areas covered are experience, willingness to serve in an underserved area, and linguistic and cultural competency.

Ms. Alameda added that they also ask why the funding is needed.

Ms. Simoes commented that it is typically needed to continue to work in an underserved area.

Ms. Kirchmeyer remarked that once the applications are reviewed they are sent back to HPEF and the committee makes the final decision.

Agenda Item 16 Update on the Physician Assistant Board

Ms. Kirchmeyer commented that the Physician Assistant Board (PAB) conducted its quarterly meeting in Sacramento on January 22, 2018, and have an upcoming meeting on April 23, 2018. She added that Ms. Breyman, executive director of the California Academy of Physician Assistants, (CAPA) shared that the optimal team practice (OTP) continues to be a national movement and CAPA will hold stakeholder meetings over the next several months with physicians and medical groups to hear directly what their impression of OTP is. She added that Ms. Breyman stated OTP is not an independent practice, it is working in teams with physicians. She added that OTP emphasizes physician assistants' (PA) commitment to team practice with a degree of collaboration determined at practice level, eliminates the legal requirement for a PA to have a relationship with a specific physician, authorizes PAs to be directly reimbursed by all private and public payers, and has an autonomous majority PA board to regulate PAs. Ms. Kirchmeyer reminded Board Members that this is at the national level and therefore is not specific to California.

Ms. Kirchmeyer remarked that the Education Workforce Development Advisory Committee stated that the accrediting body will meet in the spring and that there are currently 229 accredited programs within the country, of which 46 programs are in development. She continued to add that California currently has 14 accredited programs, of which one program is on probation, seven programs have provisional accreditation as they are newer programs, and six programs have continuing accreditation. She remarked that there are currently five programs under development in California, which means that within the next three to four years there could be up to 19 programs within California. Ms. Kirchmeyer noted that the committee anticipates significant growth with the number of licensees.

Ms. Kirchmeyer commented that Ms. Forsyth thanked the Board for their continued collaboration.

Dr. Hawkins pointed out that the Board used to have a representative on the PAB, and asked if there is a requirement to have a representative.

Ms. Kirchmeyer answered that the PAB member is a Governor's appointment that is not yet filled.

Ms. Douglass asked about the fellowships that are on hold.

Ms. Kirchmeyer explained that the update provided was from PAB, and therefore she would have to obtain more information from the PAB.

Ms. Douglass inquired if when referring to PAs if this would include fellows.

Ms. Kirchmeyer specified that the PAB is separate from the Medical Board and for that reason, she is not sure if there are fellows.

Dr. GnanaDev inquired if she was asking about peer residency programs.

Ms. Douglass confirmed that she was requesting information about peer residency programs.

Dr. GnanaDev responded that the Board does not have any information on about that topic.

Ms. Douglass commented that Ms. Kirchmeyer mentioned that one program was put on probation and she wanted clarification as to which program.

Ms. Kirchmeyer responded that Ms. Douglass should provide her information, and Ms. Kirchmeyer would answer her request.

Ms. Douglass continued that she assumes that the PA program is the same as the fellow program and she has brought many complaints to the Board about fellows doing procedures.

Ms. Webb clarified that Ms. Douglass is speaking to a different matter. Specifically, fellowships are related to physicians but this is the PAB update.

Ms. Douglass asked if her issue will come up later that day.

Dr. GnanaDev answered her issue would be more appropriate to bring up during the next open public comment.

Ms. Douglass remarked that she has contacted Ms. Kirchmeyer and has been promised that her complaints were looked into and then they were closed without investigation. She added that she finds this to be very disturbing since many have been disfigured by fellows. She commented that this is a regulatory thing that has not been looked into by the state. Ms.

Douglass described personal complaints that she has submitted and reiterated how unsafe it is that this continues.

Dr. GnanaDev explained that Ms. Kirchmeyer will talk with Ms. Douglass after the meeting and reminded her that all fellows are licensed physicians. Specifically, a person needs to be licensed by the second or third year of residency.

Ms. Douglass continued that these were unconsented procedures that left many people disfigured and reports of this began in 2012, but the Board kept closing complaints without investigation. She explained that this sends a very strange message to the public, since the Board is supposed to enforce this type of issue.

Agenda Item 17 Update on the Physician Health and Wellness Program

Ms. Kirchmeyer updated Board Members about the Physician Health and Wellness Program detailing that the regulations have gone to DCA and are currently pending DCA review.

Agenda Item 32 Items for April Board Meeting in the San Francisco Area

Dr. Lewis requested that a presentation be given on social media addiction, specifically with adolescents since it could be a health problem.

Dr. GnanaDev noted that a more applicable presentation might be what physicians can do with social media.

Ms. Pines added that it might be better if the topic was broader than just social media such as technology addiction overall.

Dr. GnanaDev remarked that if there are studies documenting the effects and action that physicians can take, then this might be appropriate.

Dr. Bholat requested an overview of the California injured worker workforce.

Dr. Krauss asked for a presentation from someone involved in mental health clinics where patients are being diverted to rather than being taken directly to an emergency room.

Mr. Andrist commented that he is still unsure that complaints are not being thrown out, since his complaint was and others have reported the same issue. For this reason, he requested an agenda item to discuss the fact that legitimate complaints are being closed without investigation. He questioned if the experts are truly qualified to be making decisions and commented that the public cannot obtain accurate information since it is hidden by the Board. Mr. Andrist added that due to the lack of transparency the public is advocating the Patient's Bill of Rights to increase public knowledge.

Mr. Andrist added his email address is stopmicra@gmail.com. He invited Board Members to work with members of the public to make the Board the best it can be. He thanked the Board for supporting SB 1448 and noted that it was very inspiring.

Mr. Andrist also requested that the Public Records Act be discussed at the next Board meeting.

Ms. Douglass reiterated that she reported a malpractice suit that was won against the surgeon in her complaint and it was reported to the Board. She added that she had followed instructions that were given to her to get an affidavit, but even still she was ignored. She added that there are malpractice cases floating around that have been reported and yet they are still not investigated. She concluded that this is a public safety hazard and the Board is choosing to ignore what is happening.

Agenda Item 33 Adjournment

Dr. GnanaDev adjourned the meeting at 12:47 p.m.

The full meeting can be viewed at [http://www.mbc.ca.gov/About Us/Meetings/2018/](http://www.mbc.ca.gov/About_Us/Meetings/2018/)

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