



# MEDICAL BOARD OF CALIFORNIA

Protecting consumers by advancing high quality, safe medical care.

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

## WebEx Online

November 12 - 13, 2020

## MEETING MINUTES

Thursday, November 12, 2020

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

### Members Present:

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

### Staff Present:

Aaron Bone, Chief of Legislation and Public Affairs  
Valerie Caldwell, Associate Governmental Program Analyst  
Charlotte Clark, Information Technology Supervisor I  
Dalia Demian, Associate Governmental Program Analyst  
Sean Eichelkraut, Information Technology Manager I  
Andrea Geremia, Staff Services Analyst  
Jenna Jones, Chief of Enforcement  
Jacoby Jorgensen, Staff Services Manager I  
Anita Joseph, Staff Services Manager I  
Sheronnia Little, Information Technology Supervisor I  
Danette McReynolds, Staff Services Manager I  
Marina O'Connor, Chief of Licensing  
William Prasifka, Executive Director  
Regina Rao, Associate Governmental Program Analyst  
Letitia Robinson, Research Data Specialist II  
Elizabeth Rojas, Staff Services Analyst  
Alexandria Schembra, Associate Governmental Program Analyst  
Reji Varghese, Deputy Director

Carlos Villatoro, Public Information Officer II  
Kerrie Webb, Staff Counsel

**Members of the Audience:**

Lisa Alden  
Eric Andrist, The Patient Safety League  
Rosie Arthursdotter  
Sue Baelen, Sacred Body Midwifery  
Todd Baker, Health Quality Investigations Unit  
Brigette Barnato  
Kelli Boehm  
Claudia Breglia, The Nizhoni Institute of Midwifery  
Joseph Cachuela, California Medical Association  
Vanessa Cajina  
David Carr, Attorney General's Office  
Gloria Castro, Attorney General's Office  
Lisa Chin, California State Senate  
Jeannie Choe, East Bay Midwives  
Yvonne Choong, California Medical Association  
David Chriss, Attorney General's Office  
Geneviève Clavreul  
Brian Clifford, Department of Consumer Affairs  
Mason Cornelius  
Marykate Cruz Jones, Department of Consumer Affairs  
Beth Darnall, Stanford University  
Rosanna Davis, California Association of Licensed Midwives  
Sarah Davis  
Phil Deters, Attorney General's Office  
Liz Donnelly  
Britt Eldridge  
Sandra Fajardo  
Maggie Fasbender  
Julianne Fellmeth, University of San Diego  
Faith Gibson, Midwifery Advisory Council  
Bridget Gramme, University of San Diego  
Joan Green  
Lindsay Gullahorn, Capitol Advocacy  
Katherine Hemple  
Christina Hildebrand, A Voice for Choice  
Marian Hollingsworth, The Patient Safety League  
Carrie Holmes, Board and Bureau Relations  
Maria Iorillo  
Jen Kamel  
Amanda Kessner, East Bay Midwives  
Wendy Knecht  
Tyson Lambert  
Susan Lauren  
Rachelle Leblanc, Attorney General's Office  
Andrew Linn, M.D., Dignity Health

Julia MacMillan  
Danny Martinez, California Pharmacists Association  
Tania McCracken  
Ruchi Modi  
Adrian Mohammed, California Medical Association  
Michele Monserratt-Ramos, Consumer Watchdog  
Kathleen Nicholls, Deputy Chief, Health Quality Investigations Unit  
V Ostermann, Inland Empire Health Plan  
Danoush Paborji  
Jonathan Padua, University of San Diego  
Ryan Perez, Department of Consumer Affairs  
Jane Perry, Stone Advocacy  
Diane Przepiorski, California Orthopaedic Association  
Nicole Reginelli  
Catrina Reyes, California Academy of Family Physicians  
Hanna Rhee, Black Patients Matter  
Jeff Rizzo  
Collin Ross, San Ysidro Health  
Alecia Sanchez, California Medical Association  
Rehan Sheikh, Physicians for Fairness  
Kristine Schultz, California Optometric Association  
Jane Simon, Attorney General's Office  
Breann Snyder  
Tay Dee Solis  
Ryan Spencer, RGS Consulting and Advocacy, LLC  
Lael Stimming  
Kim Stone, Stone Advocacy  
Kate Van Der Riet  
Marissa Vismara, California Primary Care Association  
Mary Wei, The Joint Commission  
Michelle Welborn, Welborn Baby  
Morgan West  
Ellen Williams, University of San Diego  
Madeleine Wisner, Welcome Home Midwifery Services, Inc.  
Teresa Yu

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

Ms. Pines called the meeting of the Medical Board of California (Board) to order on November 12, 2020, at 2:02 P.M. A quorum was present and due notice was provided to all interested parties.

**Agenda Item 2 Public Comments on Items not on the Agenda**

Mr. Ross commented on the Mexico Pilot Program and expressed his concerns about only allowing physicians from Mexico to qualify for the program rather than other qualified, bilingual physicians from the United States.

Ms. Darnall commented on the 2019 Health and Human Services opioid tapering guidelines and her professional experience with opioid prescribing policies and tapering guidelines. Ms. Darnall also commented on the American Medical Association's support for patient-centered opioid prescribing that is based on physician autonomy and the patient's individual circumstances. Ms. Darnall advocated for patient protections and commented that she is available for consultation or advisement on this issue.

Mr. Paborji commented that he is a third year medical student and thanked the Board for hosting the meeting.

Ms. Gibson expressed concern about obstetricians being used as expert reviewers for quality of care complaints against licensed midwives (LM). Ms. Gibson cited section 18 of the Business and Professions Code (BPC) 2220.08 and argued that obstetricians are not trained in midwifery and therefore are not qualified to evaluate standard of care complaints against LM.

Mr. Andrist welcomed Ms. Campoverdi to the Board. Mr. Andrist wished to dedicate everyone's presence to Edward Hollingsworth who passed away on October 2, 2020. Mr. Andrist also commented on a Department of Consumer Affairs (DCA) subpoena for his Facebook page, how his previous suggestions for agenda items have yet to appear, and about Board members who have not had their Senate confirmation hearings.

Ms. Arthursdotter thanked Ms. Darnall for her comments on treatment of chronic and intractable pain patients. Ms. Arthursdotter also commented on communication issues between the Board and members of the public.

Ms. Lauren commented on her past experience with, and case against, Dr. Saul Berger. Ms. Lauren stated that Dr. Berger's defense hired Dr. Terry Dubrow, whom the Board also uses as an expert, which swayed the jury during her case. Ms. Lauren recited a poem she wrote.

### **Agenda Item 3      Approval of Minutes from the August 13 - 14, 2020 Quarterly Board Meeting**

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

Mr. Watkins requested a correction on a comment he made regarding a future agenda item request.

Ms. Pines expressed her condolences to Ms. Hollingsworth and asked for a motion to approve the minutes from the August 13 - 14, 2020, Board meeting.

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

Ms. Pines asked for comments from the public.

Hearing none, Ms. Pines asked Ms. Caldwell to take the roll.

***Motion carried 12-0 (Ms. Campoverdi abstained)***

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

Ms. Pines introduced the newest member of the Board, Ms. Campoverdi. Ms. Pines gave a brief background of Ms. Campoverdi and performed the swearing-in ceremony.

Ms. Pines reviewed the Board's website, including information available in response to COVID-19 along with CURES information for prescribing physicians. Ms. Pines also mentioned the Board's summer 2020 newsletter as well as the 2019-2020 annual report being available on the Board's website.

Ms. Pines asked for questions or comments from the Board members. Hearing none, Ms. Pines asked for comments from the public. There were none.

#### **Agenda Item 5      Board Member Communications with Interested Parties**

Dr. Krauss stated that he received a solicitation from David Serrano Sewell for support of proposition 14 but he did not respond to him. Dr. Krauss also stated he's been in communication with Dr. Ralph Di Libero, the medical policy chief at Medi-Cal, who wants the Board to be involved in Medi-Cal's planned expansion. Lastly, Dr. Krauss stated that he was contacted by the California Medical Association (CMA) regarding AB 890.

Dr. GnanaDev stated he has had conversations with multiple entities, including CMA, regarding AB 890.

Dr. Thorp stated he spoke with staff at CMA regarding AB 890.

Ms. Pines asked for comments from the public.

Ms. Solis commented on a letter sent to Senator Melissa Hurtado regarding concerns with maternal health care in Kern County, as well as a letter sent to the Board regarding the same concern.

Ms. Arthursdotter commented on communication issues between the Board and stakeholders, citing requests for agenda items from Board members and stakeholders.

#### **Agenda Item 6      Executive Management Reports**

Mr. Prasifka welcomed new staff to the Board, including Anita Joseph, Staff Services Manager for the Discipline Coordination Unit, and Danette McReynolds, Staff Services Manager for the Administrative Services Unit. Mr. Prasifka gave a budget update, noting that there have been small marginal improvements in the Board's financial position and that the Board will continue to monitor the budgetary position. Mr. Prasifka commented on licensing waivers that were granted in response to COVID-19. Mr. Prasifka commented on external communications, including a presentation given to the Mid Valley Chapter of the California Association of Medical Staff Services, the release of the summer 2020 newsletter, and the publication of the

Board's annual report. Mr. Prasifka commented on teleworking, saying that the Board has invested in hardware that will promote teleworking, and the Board will be investing in its virtual private network to allow for additional capacity and bandwidth to accommodate teleworking. Mr. Prasifka mentioned the DOCS portal, which allows licensing staff to review licenses and documentation online and allows medical schools to upload documents. Mr. Prasifka commented that the Board is refreshing the website and redesigning the online complaint form.

Mr. Prasifka reported that the Central Complaint Unit's (CCU) average number of days to initiate a complaint is seven days. Mr. Prasifka also reported that the CCU has targeted older complaints and that the number of complaints over one year has decreased by 63. Mr. Prasifka reviewed the enforcement charts, explaining that the charts only reflect the most recent fiscal year and that the complaints received are in line with what the Board has been receiving to date. Mr. Prasifka commented that the average days to complete an investigation in Health Quality Investigation Unit (HQIU) remain marginally higher. Mr. Prasifka continued reviewing the enforcement data, noting that in the current fiscal year, the total time that the Attorney General's Office (AGO) worked on complaints indicate an uptick from the prior year, but, in fact, there has been no significant increase in processing times. The difference is due to using different metrics of measuring in the charts.

Mr. Prasifka commented on the Licensing Unit, saying the Board is no longer seeing a surge of licensing applications and is now issuing three licenses for every two applications received, reducing the backlog and processing times. Mr. Prasifka commented on efficiencies being made in the Licensing Unit, which is bringing the backlog and processing times back down to historic levels.

Dr. GnanaDev commented that he was thrilled about the licensing improvement and asked what the Board was doing to control costs in terms of the AGO and HQIU.

Mr. Prasifka commented that the Enforcement Unit is actively managing and reviewing cases in the initial stages, resolving cases that can go through public letters or reprimand or settlement that do not need to go through the full legal route, which reduces the utilization of the AGO and HQIU.

Dr. Hawkins expressed concern for public protection by using public letters of reprimand as a way to clear cases and asked how the Enforcement Unit will balance efficiency and quality without risking the public's protection.

Mr. Prasifka assured Board members that is not what the Enforcement Unit is doing and that the Board is dedicated to using all available resources to deal with serious cases without compromising public protection.

Mr. Watkins asked Mr. Prasifka how he was doing and adjusting to his position. Mr. Watkins also expressed his condolences to Ms. Hollingsworth.

Mr. Prasifka thanked Mr. Watkins and commented that he was doing very well along with thanking Board members for their work.

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

Mr. Andrist asked if older complaints decreased because they were closed without an investigation or thrown away. Mr. Andrist commented on past instances where public letters of reprimand were issued for serious cases. Mr. Andrist also commented on the costs for public record requests and about the website being updated for with the Americans with Disabilities Act (ADA).

Ms. Solis commented on a doctor on probation in Bakersfield that is violating their probation. Ms. Solis continued, saying she reported the doctor to the probation monitor, who was not responsive, and asked what probation monitors do. Ms. Solis commented on women and babies being harmed by doctors in Kern County.

Ms. Kessner expressed her support for an LM board and thanked the Board for including it in the Sunset Review Report.

Ms. Hollingsworth commented that, while it is encouraging to hear that the Enforcement Unit is working to lower case times, the Board's annual report shows that it takes an average of three years to complete an investigation. Ms. Hollingsworth also commented that she has found egregious cases where the physician was given a public letter of reprimand, which is contrary to the Executive Director's report and the Board's disciplinary guidelines. Ms. Hollingsworth also commented on the Board's low disciplinary rates. Lastly, Ms. Hollingsworth thanked Mr. Watkins for his condolences.

Ms. Arthursdotter commented that the Board's website is not ADA compliant and gave examples of items on the website that were difficult to find or navigate through.

## **Agenda Item 7      Discussion and Possible Action on Approval of the Sunset Review Report**

Mr. Prasifka explained that he would like to focus on three sections of the report, which include the Board's response to COVID-19, prior issues, and new issues. Regarding COVID-19, Mr. Prasifka spoke of adjusting work processes for license reviews and communicating with stakeholders, new laptops and technology to facilitate teleworking, and DCA waivers.

Moving on to prior issues, Mr. Prasifka commented on past issues that were accepted and adopted by Board. Mr. Prasifka continued, stating that this gives the Board a strong foundation to build on the work and success from the past. Mr. Prasifka spoke of the need to have data sharing relationships with other state agencies, redesign the Physician Health and Wellness Program, and efficiently deal with complaints.

For new issues, Mr. Prasifka thanked the AGO for their contributions and spoke of the need for a fee increase, cost recovery, and flexibility in staffing investigators.

Ms. Pines asked for a motion to approve the Sunset Review Report and authorize Board staff to work with the Sunset Review Task Force to finalize the report for the Legislature, and stated that Board members will then discuss the report.

**Dr. Krauss moved to approve the Sunset Review Report and authorize Board staff to work with the Sunset Review Task Force/S: Dr. Hawkins**

Mr. Watkins commented that the report lacks the most important question, which is why the Sunset Review is important. Mr. Watkins explained that this is the Board's opportunity to answer how we have protected the public. Mr. Watkins expressed his optimism in the Board's ability to present the report. Mr. Watkins suggested the Board make a commitment to listen to the public, show empathy, and be sensitive to the public's needs.

Dr. Hawkins asked how the public felt about having less in-person meetings and more virtual meetings. Regarding cost recovery, Dr. Hawkins asked how likely the Board is to get a substantial amount of money. Lastly, Dr. Hawkins asked about obtaining adequate expert reviewers for LM's.

Ms. Campoverdi asked about the prior issue of Disparity in Enforcement Actions, asking if these issues continue to be prioritized into new issues. Ms. Campoverdi also asked what happens to prior Sunset issues.

Ms. Pines asked Mr. Prasifka to comment on the implicit bias training that was conducted.

Mr. Prasifka commented that the Board is active in implicit bias training and that he is not aware of any updates in the outcomes, which will need to be further looked at. Mr. Prasifka commented that it is dependent upon the Legislature for which issues move forward.

Ms. Webb commented that, in addition to implicit bias training, the Board has made changes in how enforcement matters are presented, saying that references that may contribute to implicit bias are stripped from investigators' reports, accusations, and proposed decisions and stipulations.

Dr. Hawkins commented that there was a consensus to have another group conduct the implicit bias training, saying several Board members felt a better job could have been done.

Dr. Yip commented that the Sunset Review Report provides a history of the Board and its issues and suggested everyone read the entire report. Dr. Yip also commented on the consumer survey section of the report, expressing his disappointment in the poor ratings and asking how the Board can do better.

Mr. Watkins agreed with Dr. Yip, commenting that the Legislators will be asking the Board about reemerging issues from 2016 and how we are protecting the public. Mr. Watkins commented that the Board can do better and that is why he is optimistic about his previous comments. Mr. Watkins also commented on cost recovery and explained why he feels this issue is "dead on arrival."

Dr. GnanaDev commented that an LM board would need to be carefully structured in a way that models the nurse midwives that last year's legislature passed.



Ms. Lubiano asked if the issues in the Sunset Review Report are in order of prioritization and if the Board receives feedback on the issues we present.

Ms. Prasifka responded, saying the issues are not in any particular order, and staff would welcome direction from Board members to order the issues by priority.

Dr. Lewis commented that the 2016 Sunset Review Report issues were not in any order.

Dr. GnanaDev commented that he thinks it is a good idea to prioritize the issues.

Ms. Pines agreed with prioritizing issues, even though it is not what was historically done. Ms. Pines requested to have additional information entered in the past issues section of vertical enforcement, including if there was a cost savings or a cost increase.

Ms. Lubiano supported prioritizing or bundling the issues.

Ms. Pines asked Board members if they were all in agreement that the fee increase should be the first priority.

Dr. Hawkins and Dr. Thorp agreed with Ms. Pines.

Ms. Pines commented on the issue of cost recovery, saying it is connected to the fee increase.

Ms. Lawson gave a suggestion to bundle the issues under subheadings, saying that there are issues in different areas with the same level of importance.

Ms. Pines agreed with Ms. Lawson, asking Mr. Prasifka and Mr. Bone for their input.

Mr. Prasifka commented that there are areas of financial stability and effectiveness of enforcement.

Mr. Bone commented on the area of licensure improvements and enhancements.

Dr. Lewis commented that Board staff can prioritize the issues within the three areas that were discussed.

Ms. Campoverdi commented on the past study conducted for implicit bias and how there were no definite conclusions regarding the drivers and scope. Ms. Campoverdi commented on having an ongoing potential issues section.

Dr. Lewis responded to Ms. Campoverdi, citing a study done at the request of the Golden Gate Medical Association and recommending that she read the report.

Ms. Pines agreed with Dr. Lewis, saying that the current process should be evaluated first, and then come back in the next 18 months to look at a potential evaluation.

Dr. Krauss commented on the 2017 implicit bias report commissioned from the California Review Board and subsequent training, saying that he doesn't know that it needs to be a significant part of the Sunset Review Report since it is an ongoing evaluation.

Ms. Pines suggested adding implicit bias training as additional information as opposed to a new recommendation since it is already in process. Ms. Pines asked Mr. Prasifka to provide additional information in that area and to continue to monitor progress with consistent reporting at future Board meetings.

Mr. Prasifka agreed with Ms. Pines, commenting that the Legislature will always be looking for the Board to have systems of continuous improvement in place.

Dr. Thorp commented on the Physician Health and Wellness Program, saying he is concerned it will not get adequate attention and would like to see it prioritized.

Mr. Prasifka agreed with Dr. Thorp. Mr. Prasifka commented that the enabling legislation has already been passed and that there are regulations currently before DCA. Mr. Prasifka explained that this is not something we are asking of the Legislature and that it was put in this section to highlight that the Board is going to prioritize non-adversarial enforcement of physicians.

Dr. GnanaDev agreed with Mr. Prasifka.

Ms. Webb clarified where the Board is at in this process, saying it went to DCA and there were proposed changes made to the Uniform Standards. Ms. Webb continued, saying the changes have not been finalized by DCA, however the Board made changes to the proposed regulatory language so that it would not have to go through the rule-making process every time the Uniform Standards are changed. Ms. Webb explained that the finalization of the financial impact is being worked on and it will be sent back to DCA to go through the review process.

Ms. Pines asked for comments from the public.

Ms. Rhee commented that implicit bias training does not work but it is nice that it is being discussed. Ms. Rhee also commented on her federal civil rights lawsuits, saying her transcripts were altered and there is corruption in the system.

Ms. Choong expressed the support of CMA in bringing investigators back under the control of the Board if it reduces costs and increases efficiency, as well as non-adversarial enforcement strategies. Ms. Choong commented on concerns the CMA has for the new issues of Statute of Limitations Tolling for Subpoena Enforcement, Enhancement of Authorized Inspection Powers, Restoring Cost Recovery, and Midwifery Sunrise.

Mr. Spencer expressed the concerns and opposition that the American College of Obstetrics and Gynecology (ACOG) has for the new issue of Midwifery Sunrise.

Ms. Monserratt-Ramos commented on poor communication between Board staff and patients and families, saying the Board is not building relationships with patient stakeholders. Ms. Monserratt-Ramos commented on state senators who had a negative experience

communicating with the Board. Ms. Monserratt-Ramos spoke of her dissatisfaction with the work of probation monitors. Lastly, Ms. Monserratt-Ramos commented that the Uniform Standards for substance-abusing healthcare professionals must be the key component of the Physician Health and Wellness Program.

Ms. Arthursdotter commented on data sharing overreach from the California Department of Public Health (CDPH).

Mr. Andrist thanked Mr. Watkins for his comments and spoke of a report he made during the Board's last Sunset Review. Mr. Andrist expressed his dissatisfaction of the Board's Sunset Review Report. Mr. Andrist commented on Dr. Hawkins' question, saying he would be in favor of less regional meetings as long as the Board doesn't take the consumers less seriously.

Ms. Lorillo commented on her experience as an LM and expressed her support of having an LM board.

Ms. Choe commented that she is in support of having an LM board.

Ms. Reginelli commented that she is in support of having an LM board.

Ms. Barnato commented that she is in support of having an LM board.

Ms. Welborn commented that she is in support of having an LM board.

Ms. McCracken commented that she is in support of having an LM board.

Ms. Kamel commented on LM practices and said that she is in support of having an LM board.

Ms. Green commented that she is in support of having an LM board.

Ms. Davis thanked the Board for providing thorough information about LM's in the Sunset Review Report and commented on nurse midwives having their own board. Ms. Davis expressed her support of having an LM board.

Ms. Yu commented on LM practices and said that she is in support of having an LM board.

Ms. Wisner thanked the Board for supporting an LM board in the Sunset Review Report.

Ms. Davis thanked the Board for supporting an LM board and expressed her support for it.

Ms. Hollingsworth thanked Mr. Watkins for his comments regarding consumer empathy and shared her personal experience from a complaint she submitted to the Board. Ms. Hollingsworth commented on the last Sunset Review Report, saying the Board was not asked about enforcement statistics and that improving enforcement was not talked about.

Ms. Van Der Riet commented that she is in support of having an LM board.

Ms. MacMillan commented that she is in support of having an LM board.

Ms. West commented that she is in support of having an LM board.

Ms. Eldridge thanked the board for considering an LM board and commented that she is in support of having an LM board.

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

**Motion carried 12-0 (Dr. Thorp absent)**

**Agenda Item 8 Update from the Attorney General's Office**

Ms. Castro welcomed Ms. Campoverdi to the Board. Ms. Castro reviewed meetings that the Health Quality Enforcement (HQE) Section and the AGO has had with Board staff, saying the meetings were productive. Ms. Castro commented that her office continues to have meetings with Ms. Jones relating to case work and efficiently managing cases. Ms. Castro also commented on meetings that the HQE Section has had with DCA and the Office of Administrative Hearings (OAH). Ms. Castro stated that the AGO's annual BPC section 312.2 report is on schedule to be published on January 1, 2021.

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

Ms. Rhee commented on her ongoing federal civil rights lawsuits and stated that there is corruption in the AGO, saying that her transcripts were altered.

**Agenda Item 9 Update from the Health Quality Investigation Unit**

Mr. Chriss commented on HQIU's 5% vacancy rate and reviewed cases completed versus received. Mr. Chriss spoke of HQIU's progress with case completions since the last Board meeting as well as the new Expert Procurement Unit. Mr. Chriss explained that HQIU is in the process of being approved through the Commission on Peace Officer Standards and Training.

Dr. Hawkins asked if there have been any changes in the number of investigators hired, saying that the numbers look the same as the last Board meeting.

Mr. Chriss explained that they have had new investigators, but at the same time, there are investigators that have retired or promoted.

Dr. Lewis asked about the Expert Procurement Unit.

Ms. Nicholls explained that the new unit assists in selecting the experts on cases, packages the cases for the experts, sends the cases out, and tracks the opinions when the cases come back in. Ms. Nicholls continued, saying the creation of this unit is a more effective way to complete the process without tying up sworn staff.

Dr. Mahmood asked how HQIU has been able to increase the number of completed cases so quickly in comparison to prior quarters.

Mr. Chriss replied that they have been able to bring their staffing up to adequate levels, staff have been teleworking productively, and that they've had a wage increase which decreased turnover and increased productivity.

Dr. Mahmood commented on the wage increase and asked Mr. Chriss if he was doing everything possible to retain staff.

Mr. Chriss replied, saying they are providing specific training for staff to assist in their jobs. Mr. Chriss thanked the Board for supporting HQIU to help retain staff.

Dr. Thorp applauded Mr. Chriss for his staff retention, training, and increased case completions. Dr. Thorp asked for an explanation of why the amount of cases referred are lower.

Mr. Chriss responded, saying that the cases are uploaded at the front end and they are not in control of what gets referred to HQIU. Mr. Chriss commented that they are happy with the production and if the trend continues, the backlogs will continue to be reduced.

Ms. Pines asked what the current backlog is.

Ms. Nicholls replied that she wouldn't call it a backlog, but rather a pending workload, and it is hovering around 1,900 investigations. Ms. Nicholls explained that these cases are assigned but pending due to the high volume of work that they have.

Ms. Pines asked for comments from the public.

Ms. Rhee expressed her dissatisfaction in the HQIU and of Mr. Chriss. Ms. Rhee expressed concern for the time it takes to complete cases. Ms. Rhee also commented on her altered transcripts.

## **Agenda Item 10 Update from the Department of Consumer Affairs**

Ms. Holmes welcomed Ms. Campoverdi and recognized Ms. Pines for her work while serving as a Board member. Ms. Holmes provided a brief overview of the Board's appointments and directed individuals interested in filling a vacant position to visit DCA's webpage.

Ms. Holmes commented that a top priority for DCA is efficient and effective investigations, saying DCA is looking into its investigation process and has decided to hire an individual who is familiar with the investigative process to work with executive staff and the Division of Investigation. Ms. Holmes explained that this person will identify ways to increase efficiency, decrease investigative timeframes, and improve the quality of investigations.

Ms. Holmes gave an update on DCA's work during COVID-19 as well as the trainings that the Board and Bureau Relations have given.

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

Mr. Andrist thanked Ms. Pines for her work as a Board member.

Ms. Rhee thanked Ms. Pines for her leadership as the Board president.

### **Agenda Item 11A Implementation Plans for 2020 Legislation**

Mr. Bone presented a summary of the 2020 bills approved by the Legislature and reminded the Board that no action is required since the bills have been signed into law.

Mr. Bone reviewed AB 890, Wood, which creates pathways for nurse practitioners (NP) to practice without physician supervision.

Dr. Krauss commented that the Board should work directly with the Board of Registered Nursing (BRN) so that we all have and disseminate the same information. Dr. Krauss encouraged the two boards to work together before the next quarterly Board meeting and suggested inviting representatives from the BRN to our next meeting to give a presentation on the implementation of the law.

Dr. GnanaDev agreed that the two boards should meet and suggested they come up with a plan that is best for consumers.

Dr. Mahmood commented that he has received several calls from primary care physicians who are concerned about this law and suggested the Board come up with guidelines.

Dr. Thorp agreed with Dr. Krauss' comments and suggestions. Dr. Thorp commented that there is ambiguity in the law and there still needs to be an avenue of approach for NP and physicians to collaborate.

Dr. Hawkins commented that, like Dr. Mahmood, he has also heard concerns from primary care physicians. Dr. Hawkins stated that through working with the Health Professions Education Foundation (HPEF), he recognizes that NP's are going to underserved areas to provide care, whereas having physicians reach these areas has been difficult.

Dr. Thorp responded to Dr. Hawkins' comment, saying that looking at the demographics, NP's go to the same areas that doctors go to, and they tend to go to higher paying constituencies.

Ms. Pines agreed with Dr. Thorp's comments.

Mr. Bone asked for additional information about the request to have the BRN present at the next Board meeting.

Dr. Krauss stated that he would like to have continued communication, or a work group, between the two boards. Dr. Krauss continued, saying it is now the responsibility of the BRN

since NP's can now practice independently and have an expanded scope of practice. Dr. Krauss commented that he would like the BRN to present their implementation plans to the Board.

Dr. Thorp commented that the Board's intent is to create a collaborative relationship with the BRN so that the new law does not have unintended consequences that adversely affect the public.

Ms. Pines asked for comments from the public.

Ms. Choong thanked the Board for their comments and discussions on this topic and said that she believes the suggestions discussed are what will be necessary to ensure the law is implemented appropriately and to ensure patient access and safety.

Ms. Reyes echoed the comments from Ms. Choong, saying she supports a collaboration with the BRN.

Mr. Bone reviewed AB 1710, Wood, which allows authorized pharmacists to independently initiate and administer FDA-approved COVID-19 vaccinations.

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

Mr. Martinez thanked the Board for taking a support position on this bill.

Mr. Bone reviewed AB 2273, Bloom, which grants academic medical centers (AMC) access to the Board's special permit programs.

Dr. GnanaDev commented on a criterion included in the law that states that an AMC must conduct 100 million dollars in research annually, saying that criterion was not previously included and would like it removed.

Mr. Bone asked Dr. GnanaDev if his request also included removing the resident-to-bed ratio.

Dr. GnanaDev replied to Mr. Bone, saying yes, both of those criteria were not included when the bill was reviewed and recommended.

Ms. Lubiano asked Dr. GnanaDev if having the Board approve no more than five applications for the Special Faculty Permit (SFP) program is a limiting factor.

Dr. GnanaDev asked if the limitation is five applications per institution or five for the state.

Ms. Lubiano reviewed the analysis, saying it does not allow the Board to approve more than five applications for the SFP program submitted by an AMC in any calendar year.

Ms. Webb commented that the limitation was included to make sure there was not going to be an overburden on the Board's implementation process.

Dr. Tirado asked about the criterion of 100 research students and postdoctoral researchers annually.

Dr. GnanaDev replied, saying that the language does not indicate that research students need to be bench researchers, and that residents will be doing clinical research.

Mr. Bone reviewed SB 1237, Dodd, which allows certified nurse-midwives (CNM) to attend low-risk pregnancies and provide prenatal, intrapartum, and postpartum care without physician supervision.

Dr. GnanaDev commented that this bill had a lot of support, and he wants to make sure this is modeled when it comes to Sunset Review.

Dr. Hawkins commented on possible confusion the public will have between CNM's and LM's.

Dr. Thorp and Dr. Lewis both agreed with Dr. Hawkins.

Mr. Bone recommended the Board add information to the website to clarify the difference.

Ms. Pines asked for public comments.

Ms. Choong commented that, unlike AB 890, SB 1237 clearly defines the scope of practice for CNM's. Ms. Choong encouraged the Board to be actively engaged in the process of identifying physicians who can serve on the Nurse Midwifery Advisory Committee that's being established.

Ms. Donnelly thanked the Board for supporting SB 1237 and agreed that collaboration would be useful in making sure the information going out from the Board is the same information being given by the BRN.

Mr. Spencer agreed that clarifying the difference between CNM's and LM's would be beneficial. Mr. Spencer encouraged the Board to take an active role in the creation of the Nurse Midwifery Advisory Committee and requested obstetricians and gynecologists to be included on the committee.

Mr. Bone reviewed SB 1474, Committee on Business, Professions and Economic Development, which was an omnibus bill that included four items at the request of the Board.

Ms. Pines asked for questions or comments from the Board members. Hearing none, Ms. Pines asked for comments from the public. There were none.

### **Agenda Item 11B Regulatory Actions**

Mr. Bone welcomed questions from Board members regarding the status of pending regulations.



Ms. Pines asked for questions or comments from the Board members. Hearing none, Ms. Pines asked for comments from the public. There were none.

Ms. Pines asked for a moment of silence to recognize Mr. Hollingsworth.

**Ms. Pines adjourned the meeting at 5:58 P.M.**

**Friday, November 13, 2020**

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

**Members Present:**

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

**Staff Present:**

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

**Members of the Audience:**

Eric Andrist, The Patient Safety League  
 Rosie Arthursdotter  
 Quincy Bates, Revelation Midwifery  
 Tom Bone  
 Stuart Bussey  
 Joseph Cachuela, California Medical Association  
 Vanessa Cajina  
 Gloria Castro, Attorney General's Office  
 Yvonne Choong, California Medical Association  
 Geneviève Clavreul  
 Marykate Cruz Jones, Department of Consumer Affairs  
 Rosanna Davis, California Association of Licensed Midwives  
 Nataly Diaz, California Primary Care Association  
 Maggie Fasbender  
 Julianne Fellmeth, University of San Diego  
 Ana Gonzalez, Attorney General's Office  
 Lindsay Gullahorn, Capitol Advocacy  
 Katherine Hemple  
 Christina Hildebrand, A Voice for Choice  
 Marian Hollingsworth, The Patient Safety League  
 Carrie Holmes, Board and Bureau Relations  
 Diane Holzer  
 Anne Jurach, Office of Statewide Health Planning and Development  
 Jen Kamel  
 Susan Lauren  
 Andrew Linn, M.D., Dignity Health  
 Tania McCracken  
 Claudia Modrall  
 Adrian Mohammed, California Medical Association  
 Michele Monserratt-Ramos, Consumer Watchdog  
 Kathy Muir, Avanos Medical  
 Kathleen Nicholls, Deputy Chief, Health Quality Investigations Unit  
 V Ostermann, Inland Empire Health Plan  
 Jonathan Padua, University of San Diego  
 Ryan Perez, Department of Consumer Affairs  
 Hanna Rhee, Black Patients Matter  
 Jeff Rizzo  
 Collin Ross, San Ysidro Health  
 Jane Simon, Attorney General's Office  
 Ryan Spencer, RGS Consulting and Advocacy, LLC  
 Ryan Tacher, Department of Consumer Affairs  
 Marissa Vismara, California Primary Care Association  
 Corey Waller, M.D., Health Management Associates  
 Mary Wei, The Joint Commission  
 Ellen Williams, University of San Diego

**Agenda Item 12 Call to Order/Roll Call/Establishment of a Quorum**

Ms. Pines called the meeting of the Medical Board of California (Board) to order on November 13, 2020, at 9:02 A.M. A quorum was present and due notice was provided to all interested parties.

**Agenda Item 13 Public Comments on Items not on the Agenda**

Dr. Hawkins shared his gratitude to Ms. Pines and wished her the best on her journey after serving as Board President.

Dr. Krauss acknowledged and thanked Ms. Pines for her service and work as a Board member.

Dr. Thorpe thanked Ms. Pines for her leadership with the Board.

Mr. Watkins thanked Ms. Pines and wished her well.

Dr. Lewis thanked Ms. Pines for her commitment to the Board.

Ms. Pines thanked the Board members for their kind words and encouraged members to continue their good job.

Dr. GnanaDev expressed his appreciation to Ms. Pines.

Dr. Mahmood thanked Ms. Pines for her guidance.

Dr. Yip thanked Ms. Pines for her work and commitment to the Board.

Ms. Tirado thanked Ms. Pines for her work.

Ms. Campoverdi thanked Ms. Pines for onboarding her and for her counsel.

Ms. Lauren spoke of her surgical assault and experience she had with Dr. Saul Berger. Ms. Lauren explained her case against Dr. Saul Berger. Ms. Lauren also spoke of other surgical assault victims.

Ms. Kamel commented on LM practices, explained why it is important for LM's to have their own board, and said that she is in support of having an LM board.

Ms. Davis expressed her support of having an LM board.

Mr. Ross asked the Board to reexamine the Mexico Pilot Program to allow qualified physicians from the United States.

Mr. Andrist commented on Board members whose tenure have expired. Mr. Andrist also commented on complaints filed with the Board.

Ms. McCracken spoke of her support of an LM board.

Ms. Rhee commented on corruption within the AGO and HQUI. Ms. Rhee also commented on her altered transcripts.

Mr. Rizzo stated that he is citing Mr. Andrist and continued with comments about an enforcement case and public records requests with the Board.

Ms. Hollingsworth thanked the Board for the tribute to her late husband and thanked Ms. Pines for listening to patient safety advocates over the years.

Ms. Arthursdotter expressed her concerns with the Board's administrative processes, stakeholders' access to available tools, and the responsiveness of staff.

Ms. Hildebrand commented on difficulty obtaining requests for public records and agenda items, Ms. Hildebrand also commented on investigations of physicians who give medical exemptions for vaccinations.

Ms. Monserratt-Ramos thanked Ms. Pines for her service on the Board and for her patient advocacy. Ms. Monserratt-Ramos also commented on requests for physician information.

### **Agenda Item 17 Presentation on Pain Management**

Ms. Pines introduced Dr. Waller, giving a brief background of his education and professional works.

Dr. Waller began his presentation by stating he still treats patients with pain and that his current role is building systems of care for patients who live with chronic pain. Dr. Waller commented that he has no disclosures, meaning he has never received any money from Big Pharma.

Dr. Waller explained the current optimal state for treating a patient is through multimodal approaches, rather than medications alone. Dr. Waller stated that the problem is that we are not treating chronic pain any better now than we did in the 1990's. Dr. Waller continued, saying that because of the poor job of treatment of acute pain, it has turned into a chronic problem.

Dr. Waller presented a chart displaying various counties in California, pointing out that northern counties have the most drug overdose deaths because they are more rural, which usually means lack of access and the only tool available is prescriptions.

Dr. Waller explained that multimodal pain treatment systems do not exist in practicality. Dr. Waller listed the three types of high opioid prescribing physicians: physicians that over prescribe for money, physicians that took over a practice with a large number of patients on opioids, and physicians that have limited treatments and knowledge and have difficulty setting boundaries with patients.

Dr. Waller reviewed some ways to fix the three types of physicians he described, including removal of licensure or criminal charges, support and access to expertise and policy development, and training.

Dr. Waller concluded, saying there is no one-size-fits-all approach, and that since most providers want to do the right things, helping them only improves the medical care in California.

Ms. Pines thanked Dr. Waller for his presentation, saying his opening disclosure has allowed him to be honest on this topic. Ms. Pines commented on physicians who believe their patients cannot be weaned from opioids and asked Dr. Waller for his thoughts.

Dr. Waller spoke of patients who receive opioids for chronic pain and replied that it must be a joint decision between patient and physician to wean off opioids and explained his reasoning.

Dr. Yip asked about telehealth pain specialists and about collaborative efforts for training between the different types of physicians.

Dr. Waller responded that different physicians are trained in different ways and that continual, additional training is important. Dr. Waller continued, saying that if a complaint is received for an overprescribing physician, the Board should identify what category the physician is in, which will help determine what the next intervention will be.

Dr. Hawkins commented that many prescribing physicians do not understand or know all the available resources to them. Dr. Hawkins asked about curricula and training programs available to physicians.

Dr. Waller commented on pain education, saying that practitioners or medical students should not be the only ones with access, and that the public should be educated on this topic as well. Dr. Waller gave the website for best practices guidelines that he referenced, [nam.edu](http://nam.edu).

Dr. Lewis commented that pain management was not taught when he was in medical school in the 1980's. Dr. Lewis continued, saying that it is difficult to have conversations with patients about pain management due to time and economic constraints. Dr. Lewis asked when acute pain becomes chronic, and also asked Dr. Waller to comment on the X waiver program.

Dr. Waller spoke of a research scientist at Northwestern University that he feels is an expert on when acute pain becomes chronic pain, saying that there are changes in the brain that occurs for pain to go from acute to chronic, and that adverse childhood events and mental trauma contribute to it. Dr. Waller commented on various projects for addiction treatment.

Dr. Thorp commented on the northern county of his practice as well as his same experience as Dr. Lewis in medical school. Dr. Thorp also commented that multimodal treatment does not work for all patients and asked Dr. Waller about these patients.

Dr. Waller explained mindfulness-based cognitive therapy and how chronic pain has neurologically changed how patients react to pain.

Dr. Mahmood commented on chronic pain patients who, over time, end up on several different kinds of prescription medications, and asked about the timing of when a physician should begin the discussion of tapering or changing the approach.

Dr. Waller spoke of the process of FDA approval for medications, the negative effects of combining medications, and the need for physicians to be able to recognize when they made the mistake of providing multiple prescriptions. Dr. Waller commented that the vast majority of patients can be weaned from opioids, it just takes time and commitment.

Mr. Watkins commented on the different types of prescribing physicians and how that will carry over to deciding enforcement cases. Mr. Watkins asked if the education aspect is theoretical, practical, or both.

Dr. Waller responded that if the practical is taught, the theoretical will be learned.

Mr. Watkins asked for resources for Board members on this topic.

Dr. Waller recommended the National Academy's paper on pain management.

Ms. Campoverdi asked about insurance companies covering multimodal approaches for treating long-term chronic pain, including physical therapy.

Dr. Waller commented on long-term physical therapy, saying there is no literature to back it up. Dr. Waller commented that there is not a good toolkit available to explain pain management to patients in a comprehensive manner.

Ms. Lubiano asked for information for practitioners who want to improve their policies.

Dr. Waller spoke of first versions of publications that are currently available, and that updated versions will come out next year. Dr. Waller also commented that physicians should receive training in motivational interviewing, as well as having physical, mental, and community constructs.

Ms. Pines asked for comments from the public.

Mr. Andrist expressed his dissatisfaction of moving agenda items.

Ms. Arthursdotter commented on intractable pain patients and requested a presentation on the topic.

#### **Agenda Item 14    Update, Discussion, and Possible Action of Proposed Agenda from the Midwifery Advisory Council**

Ms. Holzer reviewed the Midwifery Advisory Council's (MAC) requested actions, including approving agenda items for the upcoming MAC meeting.

Ms. Pines asked for a motion to approve the proposed agenda with the exception of item eight, discussion and possible action on removal of the Practice Guidelines for California Licensed Midwives from the website.

***Dr. Lewis moved/S: Dr. Hawkins***

Ms. Pines asked for comments from the Board members. Hearing none, Ms. Pines asked for comments from the public. There were none. Ms. Pines asked Ms. Caldwell to take the roll.

***Motion carried 13-0***

**Agenda Item 15      Discussion and Possible Action of Recommended Appointment Tesa Kurin to the Midwifery Advisory Council**

Ms. Holzer asked the Board to approve MAC's recommended appointment, Tesa Kurin, to the LM position.

***Dr. Lewis moved/S: Ms. Campoverdi***

Ms. Pines asked for comments from the Board members. Hearing none, Ms. Pines asked for comments from the public. There was a written comment that it was hard to hear Ms. Holzer. Ms. Pines asked Ms. Caldwell to take the roll.

***Motion carried 13-0***

**Agenda Item 16      Discussion and Possible Action on the Revisions to the Practice Guidelines for California Licensed Midwives**

Ms. Holzer explained MAC's request to approve their revisions to the Practice Guidelines for California Licensed Midwives.

**Ms. Pines moved to hold an interested parties meeting to discuss the guidelines and changes recommended by MAC/S: Dr. Krauss**

Dr. GnanaDev agreed with Ms. Pines.

Ms. Lawson agreed with Ms. Pines and asked which stakeholders should be involved in the interested parties meeting.

Ms. Pines replied that she would like to defer to Board staff to determine who should be involved and would like the interested parties meeting to be held before the next quarterly Board meeting.

Ms. Lawson commented that she wants to make sure that the MAC is represented at the meeting.

Dr. GnanaDev recommended that Board leadership and staff are involved in the meeting.

Ms. Holzer commented that the MAC has held interested party meetings in trying to make their regulations and that with the stakeholders the Board has included, there has always been a stalemate.

Ms. Pines thanked Ms. Holzer for bringing that to the Board's attention. Ms. Pines asked Ms. Webb if two Board members need to be identified for the interested parties meeting and if this needs to be a task force.

Ms. Webb commented that interested party meetings need to be a noticed meeting with an agenda sent out, and that invited members of the community can be targeted.

Dr. GnanaDev recommended two Board members be appointed.

Ms. Pines asked for volunteers from Board members.

Dr. Krauss and Ms. Lawson volunteered.

Ms. Pines asked for public comments.

Mr. Spencer asked for ACOG to be included in the interested parties meeting.

Ms. Choong commented that CMA supports an interested parties meeting and shared concerns of certain sections of the revisions made to the Practice Guidelines for California LM. Ms. Choong asked for CMA to be included in the interested parties meeting.

Mr. Andrist reminded the Board of The Patient Safety League and Consumer Watchdog, saying the Board does not include these groups in interested party meetings. Mr. Andrist requested the Board think about including patient safety advocates rather than the CMA.

Ms. Davis welcomed the opportunity to put the LM guidelines through an official regulatory process and questioned what CMA and ACOG want to control in the MAC.

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

***Motion carried 13-0***

## **Agenda Item 18 Update on the Physician Assistant Board**

Dr. Hawkins stated that he was appointed to the Physician Assistant (PA) Board in August 2020 and explained what the PA Board is and what they do. Dr. Hawkins reviewed the PA Board's most recent meeting on November 9, 2020, commented that the PA Board's Sunset Review hearing is scheduled for November 18 and 19, 2020, and reviewed the 2019-2023 strategic plan. Dr. Hawkins shared the PA Board's website and social media.

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



Mr. Andrist asked if any patient safety advocates served on the PA Board.

Dr. Hawkins replied that he is not sure and invited members of the public to attend the meetings.

### **Agenda Item 19 Update on the Health Professions Education Foundation**

Dr. Hawkins explained what the Health Professions Education Foundation (HPEF) is and what they do. Dr. Hawkins shared that he and Dr. GnanaDev sit on the HPEF board and that HPEF is located within the Office of Statewide Health Planning and Development (OSHPD). Dr. Hawkins reviewed HPEF's Board of Trustees meetings along with loan and scholarship programs. Dr. Hawkins explained the Steven M. Thomson Physician Corps Loan Repayment Program (STLRP) and encouraged providers to apply. Dr. Hawkins shared HPEF's website and social media.

Ms. Pines asked for comments from the Board members.

Ms. Campoverdi asked if there were any outreach materials for Board members to share.

Dr. Hawkins replied that the website is the best resource and he will get material to Board staff to share with Board members.

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

### **Agenda Item 20 Update on the Postgraduate Training License Program**

Mr. Bone reviewed changes made to the postgraduate training requirements since the Board's last Sunset Review in 2017, including extending the required training from one year to three years and the requirement to obtain a post graduate training license (PTL).

Mr. Bone reviewed a letter from California Primary Care Association (CPCA) and the California Academy of Family Physicians (CAFP) that address their concerns regarding PTL. Mr. Bone commented that the authors of the letter indicate that they want to address their concerns through legislation in 2021. Mr. Bone commented that PTL holders seem to be experiencing challenges with what they are authorized to do within their training program.

Mr. Bone concluded that Board staff will continue to work with stakeholders for potential solutions.

Ms. Pines asked for comments from Board members.

Dr. GnanaDev commented that there is a lot of cleaning up to do with the PTL program and explained why the program is needed. Dr. GnanaDev agreed that staff should work with stakeholders and that consumer safety is paramount.

Ms. Pines asked for comments from the public.

Ms. Diaz commented on the letter that CPCA and CAFP sent and thanked the Board for their collaboration. Ms. Diaz commented that their concerns have to do with residents' ability to bill for moonlighting services, acquire an X waiver, and sign birth certificates, death certificates, and disability forms.

Ms. Cajina commented on the letter that CPCA and CAFP sent and thanked the Board for their collaboration. Ms. Cajina commented that CAFP share the same concerns previously stated.

Ms. Choong echoed the previous comments and concerns and commented that, prior to the PTL requirements, patients had better access to care since there were fewer restrictions on trainees.

## **Agenda Item 21 Update on the Death Certificate Project**

Mr. Prasifka began by saying the Death Certificate Project is now named the Prescription Review Program, which better captures the ethos and objectives of the program. Mr. Prasifka commented that, when the Board originally began the program, data reported in 2012 and 2013 indicated 2,694 deaths. The most recent data reported from the CDPH for 2019 indicates 2,666 deaths. Mr. Prasifka commented that a more robust review process for examining cases has been implemented, and that the Board is now only looking at recent cases so as not to run into statute of limitation issues. Mr. Prasifka continued, saying there is cause for concern since the number of deaths have doubled, and that the goal of consumer protection remains the same.

Ms. Pines asked for comments from Board members.

Dr. GnanaDev commented that he is glad to have the program's name changed and is surprised that the number of deaths has doubled.

Mr. Prasifka commented that the Board has only recently received the reports and that staff is still analyzing the data. Mr. Prasifka commented that a high percentage of these deaths may be related to street drugs.

Dr. Thorp commented that he is also surprised at the doubling of deaths and that in rural communities it is difficult to find physicians to prescribe opioids.

Ms. Lawson commented that the Board may want to modify the scope to include education.

Ms. Pines asked for comments from the public.

Ms. Choong commented that the CMA has had concerns with the project since its inception. Ms. Choong recommended tracking the costs associated with this program since it is not mandated by statute.

Ms. Hollingsworth thanked the Board for the update. Ms. Hollingsworth shared concerns of overlooked overdose deaths due to the 16-year gap in data. Ms. Hollingsworth also commented that the new name loses the program's sense of urgency.

Ms. Arthursdotter commented that she has concerns for this project and there should be more ethical ways to approach this problem, saying patient-doctor privileged information is being used and patients are being left without appropriate treatment.

Mr. Andrist commented that the CMA does not have patient safety as their focus and also commented that he preferred the original name of the project.

Dr. Hawkins asked Board staff to send members the process used for this study.

Dr. Thorp commented that a very small amount of physicians are overprescribing and that, while the Board has an obligation to find and discipline these physicians, the bigger challenge is educating primary care physicians since there are not enough pain management physicians to effectively manage the large population of people already on narcotics.

Mr. Watkins explained that this project identifies physicians that may have overprescribed, and that most of those physicians need education rather than just discipline. Mr. Watkins emphasized that this project is the Board's opportunity to educate physicians and the public and to improve patient safety.

## **Agenda Item 22    Update on Telehealth Regulations**

Mr. Bone reviewed telehealth regulations and explained telehealth changes during the COVID-19 pandemic. Mr. Bone mentioned telehealth-related bills that were vetoed by the Governor this year due to cost concerns. Mr. Bone explained that primary telehealth issues within the Board's jurisdiction relate to licensing and enforcement for out-of-state physicians, which is more challenging than in-state licensees.

Dr. Krauss asked if the expansion of telehealth across state lines are dated or subject to renewal.

Mr. Bone replied that it depends on if they are tied to federal disaster declarations and that it would require researching each proclamation to give a more specific answer.

Dr. Krauss requested updates on telehealth rules since this is not a static topic.

Mr. Bone commented on the Center for Connected Health Policy (CCHP) as a resource.

Dr. Krauss also requested updates on consumer complaints related to telehealth services.

Ms. Pines stated that there are several state medical boards that are making permanent changes to telehealth and that is something our Board should start looking into.

Mr. Bone commented that he expects more legislation in the upcoming year surrounding this topic.

Dr. Thorp commented that, as someone who used telehealth before the pandemic, he has seen the use of telehealth increase dramatically during the pandemic. Dr. Thorp also commented that, for telehealth to be sustainable, he thinks the process of reimbursing physicians needs to continue.

Ms. Lubiano asked what resources the public has if they are experiencing issues with quality of care.

Mr. Bone replied that they can file a complaint with the Board.

Dr. Hawkins commented that, if there is dissatisfaction with care, the first step should be for the patient to have a conversation with their provider.

Dr. GnanaDev commented that the same rules apply to telehealth as to in-person visits and agreed with Dr. Hawkins' comments.

Dr. Mahmood commented that telehealth has different norms for the COVID-19 pandemic than for normal life, where during the current environment, telehealth is necessary, and after the pandemic, telehealth will be a choice.

Ms. Pines asked for comments from the public.

Ms. Arthursdotter commented that telehealth is wonderful for those who are house bound but shared a negative encounter that a patient had with a physician claiming to be someone else.

Ms. Choong shared concerns of physicians practicing telehealth who are not licensed in California.

### **Agenda Item 23 Election of Officers**

Ms. Pines reflected on her time with the Board, shared memorable experiences, and thanked Board members and staff. Ms. Pines made a statement to patient advocates on working with the Board in the future.

**Ms. Pines nominated Dr. Lewis for President. Mr. Watkins nominated Ms. Lawson for President.**

Dr. Hawkins asked about the importance of serving on the Executive Committee.

Ms. Pines explained who serves on the Executive Committee and what the responsibilities are.

Dr. Yip asked about the nominees accepting the nomination.

Dr. Lewis accepted the nomination.

Ms. Lawson expressed her gratitude and surprise at being nominated. Ms. Lawson spoke of the importance of balance on the Executive Committee by having a public member and a physician. Ms. Lawson stated that, if members feels she should lead the Board, she will do so.

Ms. Pines commented that she thinks it is important to maintain that balance and opened the meeting up for member dialogue.

Mr. Watkins explained why he chose Ms. Lawson, saying she has the skills to address Sunset Review, she can further the Board, and is a consumer advocate as a member of the public.

Dr. Krauss commented that all the members of the Board could serve well as president or vice president. Dr. Krauss also commented that there are times when the Board member physicians are stricter than public members when they are in closed session during panel meetings. Dr. Krauss commented that there are no rules regarding the balance of leadership positions between public and physician members.

Dr. GnanaDev commented that it is important to have both physicians and non-physicians on the Executive Committee. Dr. GnanaDev also commented that having the experience as a vice president is helpful in the president role.

Ms. Lawson asked about taking nominations for all positions at once.

Ms. Pines commented that it needs to be done one at a time.

Dr. GnanaDev asked about the order of voting.

Ms. Pines commented that the process has already begun for president, so it cannot be changed now.

Mr. Watkins explained why he nominated Ms. Lawson, noting her experience and the need for balance.

Ms. Campoverdi asked about an opportunity for each nominee to make a statement.

Ms. Pines commented that that is an option.

Dr. Thorp commented that Ms. Lawson's nomination is a shock to all members, and he knows Mr. Watkins' heart is in the right place.

Dr. Mahmood agreed with Mr. Watkins and commented that every member of the Board has the capability to work on the Executive Committee. Dr. Mahmood also commented that we should not have the preconceived notion that the vice president will move up to the president's position.

Dr. Hawkins asked Ms. Lawson if she knew she was being nominated and if she wants the position.

Ms. Pines asked each nominee to make a statement.

Dr. Lewis and Ms. Lawson each shared their history, knowledge, skills, and experience with the Board for serving as Board president.

Ms. Lubiano asked if only two people represent the Board at Sunset Review.

Ms. Pines responded that the president, vice president, and executive director represent the Board at Sunset Review.

Mr. Watkins commented on his experience at the last Sunset Review, saying Ms. Lawson will be able to lead the Board through Sunset Review in a similar way Ms. Pines did.

Ms. Pines commented that Dr. Lewis has held numerous leadership roles in the medical community.

Ms. Pines asked for public comments.

Mr. Andrist commented that there is an abundance of evidence from the Board of doctors protecting doctors. Mr. Andrist also commented that the tradition of vice president moving to president is just a tradition and not a requirement. Mr. Andrist expressed his concerns of having Dr. Lewis serve as Board president.

Ms. Hildebrand seconded Mr. Watkins' nomination and commented that it is important to have a non-physician in this leadership role.

Ms. Monserratt-Ramos seconded Mr. Watkins' nomination. Ms. Monserratt-Ramos commented on Ms. Pines' statement to patient advocates.

Ms. Hollingsworth commented on Ms. Pines' statement to patient advocates. Ms. Hollingsworth commented that she supports Ms. Lawson as Board president.

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

Ms. Webb suggested that each member say the name of who they are voting for during the rollcall.

Ms. Campoverdi voted for Ms. Lawson.

Dr. GnanaDev voted for Dr. Lewis.

Dr. Hawkins voted for Ms. Lawson.

Dr. Krauss voted for Dr. Lewis.

Ms. Lawson voted for herself.

Ms. Lubiano voted for Ms. Lawson.

Dr. Lewis voted for himself.

Dr. Mahmood voted for Ms. Lawson.

Dr. Thorp voted for Ms. Lawson.

Dr. Tirado voted for Ms. Lawson.

Mr. Watkins voted for Ms. Lawson.

Dr. Yip voted for Ms. Lawson.

Ms. Pines voted for Dr. Lewis.

***Nomination for Ms. Lawson supported (9-4).***

***Ms. Pines asked for nominations for Vice President. Dr. Yip nominated Dr. Krauss for Vice President.***

Dr. Krauss accepted the nomination.

Ms. Pines asked for comments from members. Hearing none, Ms. Pines asked for public comments. There were none.

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

***Nomination for Dr. Krauss supported unanimously (13-0).***

***Ms. Pines asked for nominations for Secretary. Dr. Krauss nominated Dr. Hawkins. Mr. Watkins nominated Ms. Lubiano. Dr. Lewis nominated himself. Dr. Mahmood nominated Mr. Watkins.***

Dr. Mahmood explained why he nominated Mr. Watkins, saying he is articulate and knowledgeable.

Dr. Krauss explained why he nominated Dr. Hawkins, saying he is well known locally and nationally.

Ms. Pines asked each nominee to make a statement.

Dr. Hawkins, Ms. Lubiano, and Mr. Watkins each shared their history, knowledge, skills, and experience for serving as Board secretary.

Dr. Lewis withdrew his nomination.

Ms. Pines commented that Dr. Hawkins always steps up and demonstrates his willingness to work. Ms. Pines commented that Ms. Lubiano is engaged with the Board and will be a good leader. Ms. Pines commented that Mr. Watkins holds the Board members accountable.

Ms. Pines asked for public comments.

Mr. Andrist commented that Dr. GnanaDev did not do a good job at the last Sunset Review, and that Dr. Hawkins seems capable but is concerned over the amount of his per diem payments and of his current time commitments serving on two boards. Mr. Andrist commented that Ms. Lubiano is capable, but the public hasn't been able to get to know her. Mr. Andrist commented that Mr. Watkins makes things happen and would like to see him as Board secretary.

Dr. GnanaDev asked about a majority vote and a runoff vote.

Ms. Webb stated that the Board can determine that process, but it needs to be clear before the vote starts.

Dr. Krauss and Ms. Lawson agreed with a runoff vote.

Ms. Pines asked Ms. Webb if there needs to be a vote for this process.

Ms. Webb confirmed that would be best.

Ms. Lawson commented that a majority vote will be required, and if a majority isn't reached during the first round, the top two nominees would go to the second round.

Ms. Pines asked Ms. Caldwell to take roll for the voting process just decided.

Ms. Pines asked Ms. Caldwell to take the roll for secretary in the same way that rollcall was performed for the president.

Ms. Campoverdi voted for Dr. Hawkins.

Dr. GnanaDev voted for Dr. Hawkins.

Dr. Hawkins voted for himself.

Dr. Krauss voted for Dr. Hawkins.

Ms. Lawson voted Dr. Hawkins.

Ms. Lubiano voted for herself.

Dr. Lewis voted for Dr. Hawkins.

Dr. Mahmood voted for Mr. Watkins.

Dr. Thorp voted for Dr. Hawkins.

Dr. Tirado voted for Dr. Hawkins.



Mr. Watkins voted for himself.

Dr. Yip voted for Dr. Hawkins.

Ms. Pines voted for Dr. Hawkins.

***Nomination for Dr. Hawkins supported (10-3).***

## **Agenda Item 24 Future Agenda Items**

Ms. Lawson encouraged staff to think about areas where the Board can educate the public and its members regarding pain management.

Dr. Thorp would like a summit or workgroup on educating doctors and the public on chronic pain.

Dr. Yip would like Board staff to look into the poor ratings on consumer surveys.

Dr. Hawkins would like additional information on motivational interviewing.

Ms. Lubiano would like a presentation on the standard of care and latest technologies for cosmetic surgery.

Mr. Watkins would like a presentation from the Enforcement Unit to discuss how the Board communicates with the public after a case is closed.

Ms. Lawson suggested we present Mr. Watkins request during the enforcement update at the next Board meeting.

Dr. Hawkins suggested the Board look into consumers indicating the Board isn't addressing their concerns.

Dr. Krauss would like a presentation focused on consumer protection to address which types of practitioners may handle different cosmetic surgery procedures and what nurse supervision looks like in this arena.

Ms. Lawson asked for comments from members of the public.

Mr. Andrist commented that he has not received a consumer survey. Mr. Andrist also commented that he would like the Board to look into his public record requests, staff directives not to respond to him, how the Board deals with suggestions for future agenda items, how members of the public can make presentations, and how the Board deals with the public.

Ms. Hildebrand commented that she would like a section of the agenda dedicated to consumer advocates. Ms. Hildebrand also commented that she would like a discussion on how doctors work with alternative pain management, the standard of care, and in regard to vaccinations, the disparity of doctors being disciplined versus not disciplined.

Ms. Monserratt-Ramos commented that she would like to have a regular agenda item that is consumer-related. Ms. Monserratt-Ramos would also like a presentation on what the role of a probation monitor is, the review process for doctors on probation, and the complaint process.

Ms. Arthursdotter expressed her interest in a pain summit or task force along with an education component for consumers and providers.

Ms. Lawson asked for any additional comments from Board members.

Dr. Thorp requested a discussion on the COVID-19 vaccine, including how they are being produced and how this vaccine is different from others.

**Agenda Item 25    Adjournment**

Ms. Lawson adjourned the meeting at 2:05 p.m.

DRAFT