



# MEDICAL BOARD OF CALIFORNIA

Protecting consumers by advancing high quality, safe medical care.

## Agenda Item 3

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

### Department of Consumer Affairs

1625 N Market Blvd.

Sacramento, CA 95834

May 19-20, 2022

### MEETING MINUTES

#### **Thursday, May 19, 2022**

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

#### **Members Present:**

Kristina D. Lawson, President  
Ryan Brooks  
Dev GnanaDev, M.D.  
Randy W. Hawkins, M.D., Vice President  
James M. Healzer, M.D.  
Laurie Rose Lubiano, J.D., Secretary  
David Ryu  
Richard E. Thorp, M.D.  
Veling Tsai, M.D.  
Eserick "TJ" Watkins

#### **Members Absent:**

Nicole A. Jeong, J.D.  
Asif Mahmood, M.D.  
Felix C. Yip, M.D.

#### **Board staff present:**

Aaron Bone, Chief of Legislation and Public Affairs  
Sean Eichelkraut, Information Technology Manager  
Jenna Jones, Chief of Enforcement  
Tonya Moriarty, Licensing Analyst  
Marina O'Connor, Chief of Licensing  
William Prasifka, Executive Director  
Lisa Toof, Licensing Manager  
Reji Varghese, Deputy Director  
Carlos Villatoro, Public Information Manager  
Kerrie Webb, Staff Counsel

**Agenda Item 1: Call to Order/Roll Call/Establishment of a Quorum ([link to video](#))**

President Kristina D. Lawson called the meeting of the Medical Board of California (Board) to order on May 19, 2022, at 2:05 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 ([link to video](#))**

[Public comments on Agenda Item 2](#) were provided by: Susan Lauren, Marian Hollingsworth, Hanna Rhee, Briana Pele, Kristen Ogden, Anne Fuqua, Eric Andrist, Virginia Farr, and Christina Hildebrand.

**Agenda Item 3: Approval of Minutes from the February 10-11, 2022, Quarterly Board Meeting ([link to video](#))**

Mr. Watkins provided several corrections to the February 10-11, 2022, meeting minutes.

[Public comments on Agenda Item 3](#) were provided by Susan Lauren, Hanna Rhee, and Eric Andrist.

***Mr. Brooks moved to approve the February 10-11, 2022, meeting minutes with corrections/S: Dr. GnanaDev. Motion carried 10-0***

**Agenda Item 4: President's Report, including notable accomplishments and priorities ([link to video](#))**

Board President Kristina Lawson began her remarks by welcoming everyone back to the Board's first in-person meeting since the start of the pandemic. She recognized the heroic actions of Dr. John Cheng, an Orange County physician who put himself in the line of fire to prevent others from being shot when a gunman fired upon his church on May 15, 2022. She spoke of the danger of the spread of misinformation/disinformation.

[Public comments on Agenda Item 4](#) were provided by Susan Lauren, Eric Andrist, Hanna Rhee, Virginia Farr, and Christina Hildebrand.

**Agenda Item 5: Board Member Communications with Interested Parties ([link to video](#))**

Dr. GnanaDev stated he participated in a Legislative Day at the State Capitol on behalf of CalPac but did not talk about Board business. Mr. Brooks said he was planning to have in person meetings in the future with interested parties and will report them at a later meeting. Ms. Lubiano stated she attended the Federation of State Medical Board's Annual Meeting held in New Orleans and shared some of her takeaways from the meeting.

Dr. Hawkins added that he participated in a Food and Drug Administration Vaccine Advisory Committee as a consumer representative. Mr. Watkins said he made public comments during the May 6, 2022, Business and Professions Committee hearing regarding the Board's legislative proposals.

[Public comments on Agenda Item 5](#) were provided by Eric Andrist and Hanna Rhee.

#### **Agenda Item 6: Update from External Stakeholders ([link to video](#))**

Gloria Castro from the Attorney General's Office (AGO) provided an update to the Board including the AGO's role in the enforcement process, staffing updates, how the AGO handles cases on behalf of the Board, and information about the Health Quality Enforcement Section.

**Video:** [Update from the Attorney General's Office](#)

Kathleen Nicholls, Deputy Chief, of the Department of Consumer Affairs Divisions of Investigation, introduced DOI's new Chief, Terrence Brass, who addressed the Board and discussed his priorities for DOI. Ms. Nicholls then provided the Board an update on the Health Quality Investigations Unit (HQIU) which included an update on staffing levels, hiring efforts, aged and priority cases, and investigative workload. She also provided an update on training efforts, specifically involving training on the interviewing victims of trauma.

**Video:** [Update from Health Quality Investigations Unit](#)

Board and Bureau Relations Manager Brianna Miller provided an update to the Board regarding the transition to in-person board meetings, DCA's ongoing open meeting survey, appointments and recruitment vacancies, and the inaugural Enlightened Licensing Report, which is designed to streamline the licensing process by providing a blueprint that boards can use to license more efficiently. She announced that Alexan RPM, a California consulting firm, will be serving as the Board's enforcement monitor as stipulated in SB 806, and announced changes in DCA's leadership. She reminded the Board about Board Member Orientation Training scheduled for June 15, 2022.

**Video:** [Update from the Department of Consumer Affairs](#)

[Public comments on Agenda Item 6](#) were provided by Eric Andrist, Briana Pele, Hanna Rhee, Susan Lauren, Christina Hildebrand, Kristen Ogden, Michele Monserratt-Ramos, Virginia Farr, and Anne Fuqua.

#### **Agenda Item 7: Update from External Boards ([link to video](#))**

Dr. Hawkins provided an update on the Physician Assistants (PA) Board and stated the PA Board last met on May 8, 2022, in Sacramento. He mentioned the PA Board's reports on discipline,

complaints, probation, and diversion discussed at the meeting and accessible on the PA Board's website. He also spoke of PA education and workforce programs in California.

No public comments were provided on Agenda Item 7.

**Agenda Item 8: Executive Management Reports ([link to video](#))**

Mr. Prasifka's report to the Board included updates on staffing levels, the Board's budget, media relations and external communications, the Board's legislative proposals and its involvement in the May 6 Senate Business and Professions Committee Hearing regarding the proposals, and the Board's involvement at the recent Federation of State Medical Board's Annual Meeting.

Mr. Prasifka stated that he made multiple presentations to local groups and updated the Board regarding the proposed Complainant Liaison Unit. He spoke of the Board's new Wallet License Generator and the Complaint Tracking System, which are under development.

The Board's Information Systems Branch Manager Sean Eichelkraut provided an update on the Complaint Tracking System, and described its objectives, privacy and security considerations, and the information proposed to be available to complainants. So far, his staff has completed a proof-of-concept data access with BreEze Web Services and is in the process of finalizing Executive and Legal review of tracked complaint data in BreEze. Next steps include a Finalized Project Plan for the California Department of Technology, DCA approval, development, testing, and release.

Mr. Prasifka provided an update on the Board's enforcement and licensing efforts. Topics discussed included the Board's Expert Reviewer Program, cases nearing the statute of limitations, cost recovery, enforcement timelines, and caseload management. The Board experienced a 177 percent increase in the licensing applications received; however, the licensing timeline has maintained within reasonable limits. The Mexico Pilot Program issued 16 licenses, with about half of the licensees actively working in California clinics.

Mr. Brooks suggested the Board's Information Systems Branch seek an outside consultant to assist with the development of the Complaint Tracking System.

Mr. Ryu requested the Board's Enforcement Unit to let them know what they need to assist them in investigating cases and decreasing enforcement timelines.

Ms. Jones stated the Enforcement Program is attempting to fill internal vacancies, and HQIU is too, and affirmed to Mr. Ryu that she would let the Board know if there was anything she can think of that the Board could do to assist.

[Public comments on Agenda Item 8](#) were provided by Briana Pele, Marian Hollingsworth, Eric Andrist, Virginia Farr, Hanna Rhee, Michele Monserratt-Ramos, and Christina Hildebrand.

**Agenda Item 9: Update on Revising Guidelines for Prescribing Controlled Substances for Pain**  
**([link to video](#))**

Mr. Prasifka announced that the Board has completed a first draft of the Guidelines for Prescribing Controlled Substances for Pain and is set to release them for public review within a week or two.

Mr. Brooks said he is confident that the revisions to the guidelines are better because they are patient centric and are well thought out. He said the guidelines can't be made permanent without quality input from the public.

Dr. Thorp stated the revision contains language that keeps patients safe and provides flexibility to physicians to make prescribing decisions for patients who deal with many different subsets of pain.

[Public comments on Agenda Item 9](#) were provided by Eric Andrist, Virginia Farr, Susan Lauren, Kristen Ogden, and Anne Fuqua.

**Agenda Item 10: Discussion and Possible Action on Recommendation from the Special Faculty Permit Review Committee** ([link to video](#))

Dr. GnanaDev stated the Special Faculty Review Committee is seeking approval from the Board to grant a Special Faculty Permit to Rodrigo Antonio Brant Fernandes, M.D.

No public comments were provided on Agenda Item 10.

***Dr. Gnanadev moved to approve the SFPRC's recommendation/S: Dr. Healzer. Motion carried 10-0***

**President Lawson recessed the meeting at 6:21 p.m.**

**RECESSED**

Friday, May 20, 2022

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

**Members Present:**

Kristina D. Lawson, President  
Ryan Brooks  
Dev GnanaDev, M.D.  
Randy W. Hawkins, M.D., Vice President  
James M. Healzer, M.D.  
Laurie Rose Lubiano, J.D., Secretary

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David Ryu  
Richard E. Thorp, M.D.  
Veling Tsai, M.D.  
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**Members Absent:**

Nicole A. Jeong, J.D.  
Asif Mahmood, M.D.  
Felix C. Yip, M.D.

**Board staff Present:**

Aaron Bone, Chief of Legislation and Public Affairs  
Sean Eichelkraut, Information Technology Manager  
Jenna Jones, Chief of Enforcement  
Tonya Moriarty, Licensing Analyst  
Marina O'Connor, Chief of Licensing  
William Prasifka, Executive Director  
Lisa Toof, Licensing Manager  
Reji Varghese, Deputy Director  
Carlos Villatoro, Public Information Manager  
Kerrie Webb, Staff Counsel

**Agenda Item 11: Call to Order/Roll Call/Establishment of a Quorum ([link to video](#))**

President Kristina D. Lawson called the meeting of the Medical Board of California (Board) to order on May 20, 2022, at 9 :10 a.m. A quorum was present and due notice was provided to all interested parties.

**Agenda Item 12: Public Comments on Items not on the Agenda ([link to video](#))**

[Public comments on Agenda Item 12](#) were provided by Kristen Ogden, Hanna Rhee, Eric Andrist, Anne Fuqua, Susan Lauren, Virginia Farr, Christina Hildebrand, and Michele Monserratt-Ramos.

**Agenda Item 13: Update on the Board of Registered Nursing ([link to video](#))**

Board of Registered Nursing (BRN) Executive Officer Loretta Melby provided an update on the developing of BRN's regulatory package for AB 890, which allows nurse practitioners to practice independently after meeting certain requirements.

[Public comment on Agenda Item 13](#) was provided by Hanna Rhee.

**Agenda Item 14: Discussion and Possible Action on Legislation/Regulations ([link to video](#))**

**Legislation**

Mr. Aaron Bone, Chief of Legislation and Public Affairs, presented various bills to the Board for discussion and possible action. Mr. Bone stated certain bills have not been amended since the Board took a position on them at a previous meeting and as such, did not need to be discussed. Those bills include AB 562, AB 1278, SB 57, and SB 528. He added that SB 1441 was undergoing significant changes and no discussion is required until the bill is further along in the process. AB 2055 and SB 1365 were both held by the Legislature and will not be going forward this year, and discussion was not needed.

**AB 852 ([link to video](#))**

Mr. Bone presented AB 852 regarding nurses' scope of practice and e-prescribing. The bill makes technical changes to the nurse practitioner laws that were not included in AB 890 of 2020, which allows certain nurse practitioners to practice without physician supervision, and AB 2789, which requires health care providers to issue prescriptions electronically. The bill adds additional exemptions to e-prescribing requirements including the prescription is issued by a prescribing health care practitioner serving as a volunteer in a free clinic and receives no remuneration for their services, the prescriber registers annually with the Board of Pharmacy stating that they meet one of the following criteria – their practice is located in an area of emergency or disaster declared by federal state, or local government, they issue 100 or fewer prescriptions per calendar year, or they are unable to issue electronic data transmission prescriptions due to circumstances beyond their control.

[Public comment on AB 852](#) was provided by Christina Hildebrand.

***Dr. Thorp moved to support AB 852/S: Dr. Hawkins. Motion carried 10-0***

**AB 1636 ([link to video](#))**

Mr. Bone proceed with AB 1636, a law that would allow the Board to deny licensure to an applicant who has been disciplined by another licensing board for sexual misconduct, requires the Board to automatically revoke a physician's license if they are convicted of certain sexual crimes outside of California, and prohibits the Board from reinstating the license of a physician who surrendered or revoked due to sexual misconduct or criminal behavior, as specified. The bill also deletes a pathway for a physician whose license was revoked due to a sexual offense to petition the Superior Court to have their license reinstated.

Mr. Bone suggested the Board adopt a position of support, if amended to clarify that a license surrender following an accusation of a violation of BPC 726 or BPC 729(a) disqualifies the individual from having their license reinstated, clarify that the restrictions on reinstatement petitions



apply to surrenders and revocations that are effective on or after the effective date of the amended statute, and ensure that the Board is required to deny a petition for reinstatement to a physician and surgeon whose license is revoked pursuant to BPC section 2232.

[Public comments on AB 1636](#) were provided by Dennis Cuevas-Romero, Hanna Rhee, Marian Hollingsworth, Eric Andrist, and Virginia Farr.

***Mr. Watkins moved to support AB 1636 if amended, as recommended by staff, and further, to require the Board to deny an application for licensure or a petition for reinstatement to someone who committed an offense described in BPC 2232 (section 2 of the bill, as currently drafted)/S: Mr. Brooks. Motion carried 10-0***

#### **AB 1662 ([link to video](#))**

Mr. Bone presented AB 1662, a bill that would require DCA licensing boards and bureaus to provide a preapplication determination to an individual that indicates whether their criminal conviction history may disqualify them from licensure. The Board adopted a support if amended position on this bill during the prior meeting.

The bill does not require boards to provide a binding determination on whether a criminal conviction would cause the licensure application to be denied. However, recent amendments did not address another Board concern related to costs. As drafted, the law only allows the Board to charge a \$50 for the preapplication determination.

Mr. Bone recommended the Board to take a support if amended position with the amendments including a clarification that all costs associated with the requestor's fingerprint analysis are born by that individual and to remove the \$50 maximum fee so that the Board may charge any fee amount necessary to cover the Board's reasonable costs to establish and administer this program.

The Board directed staff to determine a specific fee amount necessary to cover the Board's costs.

[Public comments on AB 1662](#) were provided by Josh Gaines and Christina Hildebrand.

***Dr. Hawkins moved to support AB 1662 if amended with staff's recommendations/S: Dr. GnanaDev. Motion carried 10-0***

#### **AB 1733 ([link to video](#))**

Mr. Bone presented AB 1733, a bill that modernizes open meeting laws to require the ongoing use of teleconference-based public meetings, including online meetings. The bill requires state bodies to allow public access to meetings via a teleconference option and allows members of the state body to participate remotely without disclosing their location if they choose. The bill also requires



the state body to provide a physical location option for the public to come, where they may observe and participate in the meeting.

No public comment was provided on AB 1733.

***Mr. Brooks moved to support AB 1733/S: Mr. Watkins. Motion carried 10-0***

***AB 2060 ([link to video](#))***

Next Mr. Bone provided the Board an update on AB 2060, which is sponsored by the Board. The bill would change the composition of the Board from an 8-7 physician member majority on the Board, to an 8-7 public member majority. The bill also allows the Board to determine the composition of its disciplinary panels, with each panel having no less than four members.

No public comment was provided on AB 2060.

No action was taken by the Board.

***AB 2098 ([link to video](#))***

Mr. Bone presented AB 2098, a bill that established the dissemination of COVID-19 misinformation/disinformation by a physician constitutes unprofessional conduct. The bill focuses on the spread of this type of misinformation within the context of the physician-patient relationship. The Board expects to face challenges if the bill is passed as drafted, including the lack of clarity on whether the Board must establish both a departure from the standard of care and that the information in question resulted in patient harm. Further, the definitions of misinformation/disinformation may prove challenging for the Board to prove.

Mr. Bone suggested the Board take a support if amended position, with amendments to include the striking of subdivision (b) and to amend the definition of misinformation to align it to violations of the standard of care. The requested amendments also include enhanced medical record inspection authority, previously sought by the Board in a different bill.

President Lawson indicated that she and Dr. Hawkins will work with legal counsel to come up with some guidance on what the Board may currently do to discipline physicians who spread COVID-19 misinformation/disinformation and report back to the Board.

[Public comments on AB 2098](#) were provided by Kristie Sepulveda-Burchit, Christina Hildebrand, Nick Sawyer, Hanna Rhee, Dennis Cuevas-Romero, Virginia Farr, Laura Powell, Susan Lauren, and Renee Rogers.

***Dr. GnanaDev moved to support AB 2098 if amended with staff's recommendations/S: Dr. Hawkins. Motion carried 9-0. Abstain: Mr. Brooks.***

**AB 2178 ([link to video](#))**

Mr. Bone presented AB 2178, a bill that would clarify the definition of an academic medical center (AMC) for purposes of obtaining a special faculty purpose under the Medical Board of California. He recommended a support position on this bill. The Board directed Mr. Bone to discuss with stakeholders the necessity of the current law that requires accreditation of an AMC by the Western Association of Schools and Colleges.

No public comments were provided on AB 2178.

***Dr. GnanaDev moved to support AB 2178/S: Dr. Hawkins. Motion carried 8-0. Absent during voting: Dr. Thorp, Mr. Watkins.***

**AB 2626 ([link to video](#))**

Mr. Bone presented AB 2626, a bill that prohibits licensing boards in California from disciplining physicians who have been sanctioned in another state for performing abortions that would be lawful under California law if performed in this state. The bill would not prohibit Board action for conduct that violates the Medical Practice Act in California.

No public comments were provided on AB 2626.

***Mr. Brooks moved to support AB 2626/S: Dr. Hawkins. Motion carried 8-0. Absent during voting: Dr. GnanaDev, Dr. Thorp.***

**SB 1440 ([link to video](#))**

Mr. Bone next presented SB 1440, a bill that makes clarifying changes to a section of the Licensed Midwifery Practice Act of 1993. The bill provides criteria for the Board to follow when reviewing quality-of-care complaints involving a licensed midwife. The section is similar to the section for quality-of-care complaints against physicians but is missing the language related to forwarding the complaints to a field investigation or authorizing emergency action. The proposed changes to the law conform this section to the section related to similar physician complaints and a support position was recommended.

No public comments were provided on SB 1440.

***Dr. Healzer moved to support SB 1440/S: Dr. Hawkins. Motion carried 10-0***

**Regulations ([link to video](#))****Physician Health and Wellness Program**

President Lawson announced that the Board scheduled a discussion and possible action on proposed regulations for the Physician Health and Wellness Program, however, the discussion will be held over until the August Board meeting.

### **Notice to Consumers**

Staff Counsel Kerrie Webb presented proposed regulations concerning the Notice to Consumers that licensees and registrants are required to display informing patients that they are licensed or registered by the Medical Board of California, their license or registration can be checked through the Board, and that complaints can be filed with the Board and contact information on how to do that. The proposed regulations went to the 45-day comment period and requests for modifications from the California Hospital Association and the California Medical Association were accepted. The modifications include clarification that a quick response (QR) code will be included on the notice template, which will lead consumers to the Board's Notice to Consumers webpage.

A translated notice will need to be provided in the language understood by the patient or the patient's representative but only to the extent that the Board has provided for the translation. The Board will translate the notices into the 12 most common non-English languages spoken in California and the requirement to provide the translation is included in the regulation. She added that the Board clarified that the notice and acknowledgement of receipt and understanding may be provided and maintained in an electronic format.

Ms. Webb requested a motion to approve the modified text to amend Title 16, CCR Section 1355.4 and 1379.58, and to add sections 1378.5 and 1379.4, direct staff to provide notice of a 15-day comment period on the modified text, and if no substantive adverse comments are received during the comment period, authorize staff to finalize the rulemaking file, and submit it to the Office of Administrative Law, including the authority to adopt the modified text and make any technical non-substantive changes without returning to the Board.

The Board engaged in a lengthy discussion involving the implementation of the regulations and spoke of making it easier for doctors and patients alike to display the information, and to receive it in the language that they understand. The discussion also touched upon the QR code itself and where it led patients to, and how to leverage technology to implement the regulations easier and make them more user friendly.

[Public comments on the proposed amendments to the signage regulations](#) were provided by Eric Andrist, Alecia Sanchez, Virginia Farr, Marian Hollingsworth, and Christina Hildebrand.

***Dr. Hawkins moved to support the proposed regulations/S: Mr. Watkins. Motion carried 10-0***

**Agenda Item 15: Update, Discussion, and Possible Action on Proposed Agenda for Midwifery Advisory Council Meeting ([link to video](#))**

Ms. Diane Holzer, Midwifery Advisory Council (MAC) Chair, requested the Board's approval of the MAC's agenda for its next meeting. She also updated the Board on what took place at the MACs March meeting.

No public comments were provided on Agenda Item 15.

***Dr. Healzer moved to approve the MAC's agenda/S: Dr. Hawkins. Motion carried 10-0***

**Agenda Item 16: Discussion, and Possible Action on Recommended Appointment of Barbara Woodley to a Public Member Position on Midwifery Advisory Council ([link to video](#))**

Ms. Holzer continued by informing the Board that the MAC received two applications for its public member vacancy and approved Ms. Barbara Woodley to the MAC.

No public comments were provided on Agenda Item 16.

***Dr. Hawkins moved to support the appointment of Ms. Woodley to the MAC/S: Dr. Healzer. Motion carried 10-0***

President Lawson thanked Ms. Holzer for her years of service on the MAC, as this was her last meeting as a member.

**Agenda Item 17: Future Agenda Items ([link to video](#))**

Dr. Thorp requested an item involving the Pharmacy Board within the context of the revision of the Board's prescription guidelines for pain management.

Ms. Lubiano requested a presentation on LGBTQIA health.

Mr. Watkins requested a presentation on trauma-informed training.

Board President Lawson requested a future agenda item or internal discussion on misinformation/disinformation involving partners such as the California Department of Public Health and others.

Several Board Members acknowledged Board Member Dr. GnanaDev for his service on the Board, as it was his last meeting as a member of the Board.

Dr. GnanaDev remarked that his goal was always the betterment of the profession. That means to truly take the bad doctors out of practice, helping doctors when they make simple mistakes and protecting consumers.

President Lawson and Vice President Dr. Hawkins also recognized Dr. Yip who was not present at this meeting, for his service to the Board.

[Public comments on Agenda Item 17](#) were provided by Hanna Rhee, Eric Andrist, Virginia Farr, Christina Hildebrand, Marian Hollingsworth, and Michele Monserratt-Ramos.

### **Agenda Item 18: Adjournment**

**President Lawson adjourned the meeting at 1:22 p.m.**