



# MEDICAL BOARD OF CALIFORNIA

Protecting consumers by advancing high quality, safe medical care.

Agenda Item 3 C

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

## WebEx

### Interim Board Meeting

March 23, 2023

### MEETING MINUTES

Thursday March 23, 2023

*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  
Michelle Anne Bholat, M.D.  
Ryan Brooks  
Randy W. Hawkins, M.D., Vice President  
James Healzer, M.D.  
Laurie Rose Lubiano, J.D., Secretary  
Asif Mahmood, M.D.  
David Ryu  
Richard E. Thorp, M.D.  
Veling Tsai, M.D.

#### Members Absent:

Nicole Jeong, J.D.  
Eserick "TJ" Watkins

#### Staff Present

Aaron Bone, Chief of Legislation and Public Affairs  
Sean Eichelkraut, Information Technology Manager  
Jenna Jones, Chief of Enforcement  
Jeannele Lopez, Executive Administrative Assistant  
Marina O'Connor, Chief of Licensing  
Letitia Robinson, Research Data Specialist  
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 called the meeting of the Medical Board of California (Board) to order on March 23, 2023, at 9:05 a.m. A quorum was present and due notice was provided to all interested parties.

**Agenda Item 2: Closed Session to Discuss Pending Litigation Pursuant to Section 11126€(1) of the Government Code ([Link to video](#))**

The Board met in closed session to confer with its counsel regarding the following litigation:

- A. McDonald, et al., v Lawson, et al., U.S. District Court, Central District of California, Case No. 8:22-CV-01805-FWS-ADS
- B. Høeg, et al., v. Newsom, et al., U.S. District Court, Eastern District of California, Case No. 2:22-cv-01980-WBS-AC
- C. Couris, et al., v. Lawson, et al. U.S. District Court, Southern District of California, Case No. 3:22-cv-01922-MMA-JLB
- D. Christian Medical & Dental Associations, et al., v. Bonta, et al., U.S. District Court, Central District of California, Case No. 5:22-CV-00335-FLA-GJS

**Agenda Item 3: Public Comments on Items not on the Agenda ([Link to video](#))**

[Public Comments on Agenda Item 3 Were Provided By:](#) Marian Hollingsworth, Kristen Ogden, and Arcadio Riveros.

**Agenda Item 4: Board Member Communications with Interested Parties ([Link to video](#))**

Dr. Hawkins spoke to local medical schools and local medical societies regarding PTLs and Physicians and Surgeons licenses. Drs. Bholat and Thorp said they too had discussions with residents regarding PTL and initial P&S licensure.

President Lawson said she had communications regarding the PTL issue, appeared before the State Legislature during the Board's sunset hearing and had numerous conversations with legislators regarding sunset and other issues.

[Public Comments on Agenda Item 4 Were Provided By:](#) Christina Hildebrand and Monty Goddard.

**Agenda Item 5: Discussion and Possible Action on Responses to Legislative Questions Asked of the Board Related to Sunset Review ([Link to video](#))**

Mr. Bone discussed the Board's sunset review hearing held on Thursday March 16, the Board leadership and executive team appeared before the Legislature for the hearing. The Board is expected to provide written responses to the various issues identified in the background paper which is written by legislative staff.

The Board's background paper identified 18 issues for legislative consideration. Each issue includes a recommendation from legislative staff which serves as a prompt for the Board's response to the paper. Some of the issue recommendations include requests for the Board to provide specific information, others provide the Board the opportunity to reaffirm the legislative proposals included in the Sunset report. As the hearing was just a week ago staff have not yet

had the opportunity to draft these responses, instead staff hopes to use this time to receive suggestions or recommendations from the Board members.

Mr. Bone recommended a motion to delegate to the president and vice president to consider the comments from the members today and to work with staff to draft and submit the responses to the Legislature.

Dr. Thorp discussed his concerns regarding the request to change the evidentiary standard of proof.

President Lawson and Mr. Bone discussed presenting each item individually and Mr. Bone proceeded to move through each item.

Mr. Bone said Issue #1 relates to the Board's composition and the recommendation there is for the Board to provide information about how this change would make MBC more effective and successful with a public member majority.

Issue #2 relates to the research psychoanalyst program and the Board's proposal to move oversight of research psychoanalysts to the Board of Psychology.

Issue #3 relates to licensed midwives and the establishment of a new board for them, which is a Board proposal.

Issue #4 involves the Complainant Liaison Unit, and noted the Legislature is asking for the Board to explain how the program could be established, the necessary steps, and the role that revenue would play in bringing this effort to fruition, which is largely already outlined in the Sunset Report.

Issue #5 is about the Board's fund condition.

Issue #6 relates to physical and mental health conditions that impair the physician's ability to practice medicine.

Issue #7 relates to the postgraduate training license. Mr. Bone indicated that a proposal later on the agenda deals with that issue.

Issue #8 relates to the Mexico Pilot Program (MPP). Mr. Bone stated that the Board will be discussing two bills relating to the MPP later on in the agenda.

Issue # 9 relates to mandatory reporting.

Issue #10 relates to the evidentiary standard of proof. Issue #11 relates to subsequent arrest reports.

Issue #12 relates to the confidential letter of advice.

Issue #13 relates to access to medical records obtained during an investigation.

Issue #14 relates to probation modification and reinstatement.

Issue #15 relates to various enforcement proposals that have been included in the Sunset Report.

Issue #16 relates to the enforcement monitor and touches on the proposals that are in the enforcement monitor's report.

Issue #17 relates to various technical licensing changes.

Lastly, Issue #18 relates to whether the Board should be renewed for a four-year period.

Ms. Lubiano and Board members discussed a suggestion in terms of presentation of these items to the Legislature and possibly prioritizing the top five items. Mr. Bone discussed mentioning the Board's priority issues in a cover letter to go along with the responses.

[Public Comments on Agenda Item 5 Were Provided By:](#) Marian Hollingsworth, Tracy Dominguez, Christina Hildebrand, Lucas Evenson, and Michele Monserratt-Ramos.

**Ms. Lubiano moved to delegate authority to Ms. Lawson and Dr. Hawkins to work with staff to finalize the response to the Legislature /S: Dr. Healzer; Motion carried 10-0 (2 absent)**

**Agenda Item 6: Discussion and Possible Action on a Legislative Proposal Related to the Postgraduate Training License ([Link to video](#))**

Mr. Bone advised that due to legislative changes, as reported in prior meetings, the Board began receiving an exceptionally high volume of licensing applications starting last year, particularly from those with a PTL who are transitioning to a Physician's and Surgeon's (P&S) license. In the Board's Sunset Report, the Board stated its desire to explore statutory changes to allow the PTL to be issued for longer than the current 15 or 27 months with the goal of providing PTL holders a longer window of time to transition to their P&S license.

This item is a legislative proposal in line with the Sunset Report and would lead to a PTL being issued for a period of 36 months, similar to how the law worked prior to 2022. This change is intended to provide PTL holders additional flexibility to make the transition to a P&S license. This change would not require licensees to maintain their PTL for 36 months rather it would allow them to stay with the PTL for that period of time if they wished, provided they remain enrolled in their training program.

Eligible applicants could still move to a P&S license as soon as they successfully complete the required amount of training. This proposal does not change the requirements for obtaining either a PTL or a P&S license, it merely provides more flexibility in the process, including more time for applicants to remediate deficiencies or other issues that arise during the application

review process. The proposed statutory changes are included in the materials. Staff recommend the Board approve the proposal and direct staff to distribute it to the Legislature and seek its inclusion in the Board's Sunset bill.

Dr. Hawkins expressed concerns regarding any potential downsides. Ms. O'Connor confirmed there are no potential downsides in the processing of applications, and noted the proposal provides the benefit of allowing more time for a PTL holder to transition to a P&S license so that their PTL doesn't expire.

Dr. Hawkins requested Ms. O'Connor and Ms. Webb provide the rationale for the 24 consecutive-month requirement in the same program. Ms. Webb provided an explanation for the rationale and said that the 24-month-time requirement allows residents to resolve any deficiencies identified by their program, rather than changing programs after a year. Board members and staff continued the discussion in further detail.

Dr. Thorp moved to authorize staff to forward the recommendations in a legislative proposal to amend the current language.

President Lawson requested direction from Ms. Webb and Mr. Bone regarding a motion for Agenda item 6 and how to proceed with a motion for the length of time in the same program. Ms. Webb advised the 24 month requirement was not placed on the agenda for this meeting; therefore, it has to be placed on the agenda during the next Board meeting in May 2023.

[Public Comments on Agenda Item 6 Were Provided By:](#) Monty Goddard, Dr. Deena McRae, and Lucas Evenson.

**Dr. Thorp moved to authorize staff to submit a legislative proposal to issue PTLs for three years/S: Dr. Hawkins. Motion carried 10-0 (2 absent)**

#### **Agenda Item 7: Discussion and Possible Action on Legislation ([Link to video](#))**

Mr. Bone presented a discussion on Legislation for seven bills listed on the green and blue colored tracker chart that have already been introduced and discussed. Mr. Bone recommended to not discuss and take action on the bills shaded in blue, AB 834 and SB 815, at this meeting due to expected further amendments and to wait until there is more time for those bills to develop.

#### **AB 470 ([Link to Video](#))**

This bill updates continuing medical education or CME requirements to encourage physicians to pursue CME courses that improve the quality of physician-patient communication in a manner that is culturally and linguistically competent. The bill updates the criteria for CME

courses to emphasize the importance of improving the quality of physician-patient communication. It also adds certain requirements that accrediting bodies must follow if they update CME standards relating to cultural and linguistic competency for the practice of medicine in California. This bill is not expected to change the Board's workload associated with auditing a physician's compliance with CME requirements. AB 470 is expected to help support the cultural and linguistic competency of physicians in the state who serve a diverse population. Mr. Bone said staff recommends a support position on this bill.

[Public comments on AB 470 were provided by:](#) George Soares and Dr. Roger Liu.

**Dr. Thorp moved to support AB 470/S: Dr. Hawkins; Motion carried 10-0 (2 absent)**

#### **AB 765 ([Link to Video](#))**

This bill prevents anyone from using a medical specialty title or to refer to themselves as an osteopathic medical doctor without being licensed as a physician. The bill includes numerous examples of specialty titles associated with physicians but is intended to encompass any title that indicates or implies that the person using it is licensed to practice medicine. This bill is expected to add clarity and certainty for consumers regarding their healthcare providers and hopefully avoid confusion about the qualifications of their chosen provider. Staff recommends a support position on this bill.

[Public comment on AB 765 was provided by:](#) George Soares.

**Dr. Thorp moved to support AB 765/S: Dr. Healzer. Motion carried 10-0 (2 absent)**

#### **AB 1395/1396 ([Link to Video](#))**

AB 1395 would require the Board to issue a license under the Mexico Pilot Program (MPP) to an applicant without an individual taxpayer identification number or social security number provided that the applicant meets all other requirements for licensure. Under this program the licensee would not be allowed to practice medicine until the licensee provides their social security number to the Board and the Board confirms that they have met the requirements. Staff do not have concerns with this proposal and recommend the Board adopt a support position on AB 1395. The second bill, which is 1396, includes the same proposal in 1395 and an additional one that would allow an MPP license holder to request an extension of the expiration date of their license. Under current law, the MPP is issued for a three-year period and may not be renewed. The extension proposal, narrowly crafted at the request of the sponsor, is intended to help licensees who are facing a delay in their practice due to a health condition or due to the time required to obtain a visa or appropriate credentials from a health plan.

Board staff have had multiple conversations with the sponsors of the bill and the proposed amendments in the analysis reflect the Board's attempt to identify and resolve the various necessary details so that the Board may successfully implement an extension for these

licensees. The members will hear from the sponsors during public comment. The details of the staff's recommended amendments are stated on pages three and four of the analysis and again reflect the conversations with the sponsors. Staff recommend the Board adopt a support if amended position on the expiration proposal. 'on AB 1396.

[Public comments on AB 1395/1396 were provided by:](#) Arcadio Riveros, Dr. Roger Liu, Rosa Vivian Fernandez, Laura Stampleman, Graciela Soto, Fabiola Moreno, and Arnaldo Torres (during public comment on SB 373).

**Dr. Thorp moved to support AB 1395 and to support if amended 1396/S: Mr. Brooks. Motion carried 10-0 (2 absent)**

### **SB 373 ([Link to Video](#))**

SB 373 prohibits the Board from publicly disclosing the address of record of any licensee who practices psychiatry except that their city state and zip code would be published. The bill applies similar prohibitions to the licensees and registrants of the Board of Behavioral Sciences and to the licensees and registered psychological associates under the Board of Psychology. The bill is intended to help promote safety among mental health providers. The analysis provides links to some articles that note increased prevalence of verbal and physical aggression experienced by those professionals.

Current law already provides a mechanism in line with the goals of the bill, as noted in the analysis. Any physician may provide the Board with a PO box which would avoid the publishing of their physical address on our website. Publishing a full address of record whether it includes a full physical address or a PO box provides consumers the opportunity to verify the identity of a physician and also provides a means to facilitate communication with their physician, including seeking a copy of medical records or serving legal documents. Further, other state law requires health plans and insurers to publish the practice address of their contracted healthcare providers; therefore, it's not clear to the staff how this bill will help achieve the intended goal of promoting safety. In light of these considerations, staff recommend an oppose position on SB 373.

Board members and Staff discussed existing alternatives for physicians disclosing their addresses for consumers to contact them and gain clarification for requesting Board members to oppose the recommendation.

[Public Comments on SB 373 Were Provided By:](#) none.

**Dr. Tsai moved to oppose SB 373/S: Dr. Healzer. Motion carried 10-0 (2 absent)**

**Agenda Item 8: Future Agenda Items [\(Link to video\)](#)**

Mr. Brooks requested Board counsel propose new rules for decorum during public comments.

Dr. Thorp requested the Prescribing Guidelines be placed on May's Quarterly Board meeting.

Dr. Bholat requested a discussion on the PTL in regard to program directors' ability to communicate with the Board without written consent from an applicant.

Public Comments on Agenda Item 8 Were Provided By: Christina Hildebrand, Marian Hollingsworth, Monty Goddard, and Eric Andrist.

**Agenda Item 9: Adjournment 12:50 P.M ([Link to Video](#))**

DRAFT