



MEDICAL BOARD OF CALIFORNIA

Protecting consumers by advancing high quality, safe medical care.

Agenda Item 3A

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

**DCA Headquarters
1625 N. Market Blvd
Sacramento, Ca 95834
May 18-19, 2023
MEETING MINUTES**

Thursday May 18, 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:

Randy W. Hawkins, M.D., Vice President
Laurie Rose Lubiano, J.D., Secretary
Michelle Anne Bholat, M.D.
James M. Healzer, M.D.
Nicole Jeong, J.D.
Asif Mahmood, M.D.
David Ryu
Richard E, Thorp, M.D.
Veling Tsai, M.D.
Eserick "TJ" Watkins

Members Absent:

Kristina D. Lawson, President
Ryan Brooks

Staff Present:

Aaron Bone, Chief of Legislation and Public Affairs
Jacoby Jorgenson, Business Services Office Manager
Marina O'Connor, Chief of Licensing
Alexandria Schembra, Associate Government Program Analyst
Kathryn Taylor, Staff Services Manager I
Angel Vang, Information Systems Branch Analyst
Reji Varghese, Interim Executive Director
Kerrie Webb, Staff Counsel

Agenda Item 1 Call to Order/Roll Call/Establishment of a Quorum ([Link to Video](#))

Vice President Hawkins called the meeting of the Medical Board of California (Board) to order on May 18, 2023, at 9:06 am. 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:](#) Kristen Ogden, Marion Hollingsworth, Curtis, Eric Andrist, and Monty Goddard.

Agenda Item 3: Approval of Minutes ([Link to Video](#))

A.) December 1-December 2, 2023

B.) February 8-9, 2023

C.) March 23, 2023

Mr. Watkins discussed the structure of the meeting minutes with Board members and provided a suggestion to remove the written summary for Agenda Items and instead provide a link and time stamp to each Agenda Item or provide a full transcript. Ms. Lubiano suggested making a more direct request to staff to review and provide possible recommendations on changes for the future.

Dr. Thorp moved to approve the December 1-2, 2022, February 8-9, 2023, and March 23, 2023 minutes/S: Dr. Healzer; 10-0 (2 Absent) Motion carried.

[Public comments on Agenda Item 3 were provided by:](#) Eric Andrist.

Agenda Item 4: Vice President's Report, including notable accomplishments and priorities ([Link to Video](#))

Vice President Hawkins discussed his activities which included his presence at the Sunset Review Hearing with Staff leadership and President Lawson on March 16, 2023. Dr. Hawkins also mentioned regular meetings with Board staff, meetings on the Physician Assistant's Board, a member of multiple Food and Drug Administration Advisory Committee as a consumer representative. Dr. Hawkins stated he had multiple meetings with medical students and physicians in training about their special role as a physician in the practice of medicine in the state of California.

[Public comments on Agenda Item 4 were provided by:](#) No public comment.

Agenda Item 5: Board Member Communications with Interested Parties ([Link to Video](#))

Dr. Thorp had several conversations with subject matter experts regarding the opioid prescribing guidelines, specifically Dr. Sean Mackey and Dr. Lee Snook regarding additional input into the prescribing guidelines.

Mr. Watkins spoke to Senator Roth, Sarah Mason, Eric Andrist, and Marianne Hollingsworth and one other individual.

[Public comments on Agenda Item 5 were provided by:](#) No public comment.

Agenda Item 6: Executive Management Report ([Link to Video](#))

Mr. Varghese began with the administrative update and stated Board staff had regular contacts with Board leadership, Attorney General's Office, Health Quality Investigation Unit (HQIU) and other organizations listed on the report. Mr. Varghese provided a staffing update and stated the Medical Board was previously at a 20% vacancy rate; however, is currently at a 17.3% vacancy rate. HR staff are working with program managers in recruitment efforts. The Board is also seeking to hire retired annuitants to assist with the task to decrease the back log and is an ongoing effort.

Mr. Varghese proceeded with the budget update. He stated the Board took a \$10 million loan from another DCA fund for 2021-2022 and as of this report date, with the help of the loan, the Board's funds are projected at 1.6 months reserve by the end of the fiscal year, which ends June 30, 2023. Another loan will be secured by the end of the year to keep the Board going into the next fiscal year. The loans must be repaid with interest in 2023-2024 and 2024-2025. Mr. Varghese stated that unless an additional fee increase is approved as proposed in the Sunset Bill this year, the Board's fund balance will result in a negative 2.4 month reserve by the end of 2024-2025.

Mr. Varghese discussed media relations and external communications, including use of social media and publication of the Board's Newsletter on April 11, 2023. He highlighted some of the articles contained in the newsletter.

Among other updates, Mr. Varghese indicated that the licensing program hosted a live webinar on March 29, 2023. Mr. Varghese reported a majority of Medical Board staff are still teleworking and the percentages are available in the report.

Mr. Varghese provided an update on the System Information Branch and indicated that over 57,350 licensees have completed the redesigned licensee survey. This survey is used to collect additional work force data of healing arts professional licensees, as required by the legislation AB 133.

Mr. Varghese stated that the Board held an interested parties meeting to discuss the Complaint Tracking System on March 6, 2023. Dr. Bholat and Ms. Lubiano chaired the meeting, and the discussion was productive. The next meeting will be held on June 21, 2023.

Mr. Varghese described some process improvements in licensing, including that as of May 2023 over 70,000 wallet cards have been generated and distributed decreasing the cost of plastic cards mailed. Additionally, more than 53,000 documents have uploaded via DOCS for applicants, which has reduced the tasks of opening mail, scanning and processing paper.

Mr. Varghese provided an updated on the enforcement program, including that the Enforcement team met with DCA staff to work on action planning as part of the Strategic Plan. Additionally, he indicated that Ms. Lubiano is meeting with the expert reviewer team monthly and providing assistance as the Board seeks to improve the training.

Mr. Varghese indicated that HQIU has reduced their pending investigating cases from 2,340 in January 2023 to 1,273 as of April 2023. Staff meets on a weekly basis to address aging cases and other matters, and the team constantly looks at the shared service contract to review and periodically ensure costs are accurately charged and accounted for. The Board has seen an increase in billing to allied health boards and that is also part of accurately accounting for the shared service contracts. As of March 2023, the Board is on track for an additional \$700,000 this fiscal year from the allied health boards for services provided by the Medical Board.

Mr. Varghese provided an update on the Expert Reviewer Program and indicated that there are currently 726 active experts. Additional experts are being recruited, as the Board is still lacking experts in specialty areas.

Mr. Varghese discussed Central Complaint Unit timelines and provided a vacancy update for the Discipline Coordination Unit and Probation Unit.

Mr. Varghese referred the members to a budget report provided by the Attorney General's Office included within the materials.

Mr. Varghese provided a licensing update and indicated that licensing is still experiencing a high volume of applications and is currently at approximately 80 days average to review a physician and surgeon license application.

Mr. Varghese provided a process improvement update and indicated that effective May 31, 2023, the Board will no longer accept or process paper applications for physician and surgeon licenses. By June 2023, the Board will have successfully transitioned all PTL and physician and surgeon license applications to online submission only.

Mr. Varghese advised that the next step for process improvement is to require the medical schools and postgraduate training programs to use the DOCS portal exclusively for transmitting documents to the Board.

Mr. Varghese concluded his administrative report.

Ms. Lubiano and Mr. Varghese discussed the 17% vacancy rate and the downward trend in pending cases and processing times.

Dr. Mahmood presented concerns with a solid plan on repayment of the current loan and the possibility of a future loan. Mr. Varghese and Dr. Mahmood discussed the need for fee increases. Dr. Mahmood and Mr. Varghese also discussed hiring quality expert reviewers and extending outreach to recruit quality expert reviewers.

Dr. Healzer and staff discussed the back log of new licensing applications.

Dr. Tsai discussed vacancy and turnover rate at the Board.

Dr. Bholat and staff discussed differential retention vacancies compared to the BRN, Pharmacy Board and Medical Board and ability to fund themselves. Dr. Bholat also discussed expert reviewer program and how the ability to consult with legal counsel would be beneficial to experts to prepare for hearing. Ms. Lubiano highlighted the progress in efforts to improve the expert reviewer program.

Board members discussed the Complaint Tracking System Interested Parties meetings.

Mr. Watkins expressed concerns with the funding for the Board and ability to repay the loan the Board has taken. Board members and staff further discussed the fee increase and Board budget.

[Public comments on Agenda Item 6 were provided by:](#) Marianne Hollingsworth.

Agenda Item 7: Updates from External Stakeholders ([Link to video](#))

Ms. Dorantes appeared for Ms. Gear from DCA and among other topics, she congratulated Ms. Lawson and Dr. Hawkins, and Board leadership on a successful Sunset hearing as well as Dr. Bholat, Dr. Tsai, and Ms. Jeong on their senate confirmation last month. Ms. Dorantes discussed a new revised budget plan released on May 12, 2023, and will be working with legislature on a final budget in June 2023.

Ms. Dorantes discussed the Diversity, Equity, and Inclusion (DEI) Steering Committee and indicated that this committee has been working on different items including the strategic planning process, training, and development of a DEI FAQ sheet, which was distributed to Board leadership. Ms. Dorantes indicated that all of DCA's Solid trainers completed a 50-hour DEI training certification program through the University of Massachusetts in April 2023, and advised that DEI training courses are available through Solid.

Ms. Dorantes stated that all DCA employees and appointees including board members and advisory council members will need to complete the Sexual Harassment Prevention training this year and board members must take the one-hour non-supervisory training as well. She further advised that Board members with an assigned DCA email are required to complete the Information Security Awareness fundamentals training, and it is required every single year.

Ms. Dorantes provided an update on travel expense claims and discussed Board Member Orientation Training (BMOT).

Ms. Dorantes discussed the Bagley-Keene Open Meeting Act and the pending legislation, SB 544 by Senator Laird that may make some changes to the Act, if passed.

Ms. Dorantes indicated that on January 5, 2023, a new federal law took effect that enables service members and their spouses who hold professional licenses in a different state to practice in California within the same professional discipline and at a similar scope of practice if they are required to relocate to California due to military orders. DCA has been collaborating with other agencies on how to best implement it and will continue to share information as it becomes available. Finally, Ms. Dorantes indicated that DCA submitted its 2021-2022 annual report to the legislature and advised that the report is available on the DCA website.

Ms. Nicholls welcomed Stephanie Whitley, the new HQIU Deputy Chief effective May 15, 2023.

Ms. Nicholls provided information about HQIU staffing, including that as of May 2023, HQIU has 19 investigator vacancies which is a 23 percent investigator vacancy rate; however, the vacancy rate has decreased since the last update to the board in February.

Ms. Nicholls advised that in April 2023, HQIU medical consultants participated in a whole day training which covered items on case reviews, subject interviews, good cause statements, reviewing CURES data, and overall case management. Ms. Nicholls stated the training was very well received and they will be having bi-annual statewide meetings and training for the medical consultants moving forward to continue sharing best practices and allow for collaboration on new ideas and efficiencies. Ms. Nicholls stated she continues to meet with the Board's enforcement monitor to share requested information and discuss relevant enforcement issues.

Ms. Nicholls further stated there is continued progress on HQIU's pending workload and

stated that HQIU continues to hold regular meetings with Board staff in addition to sending an automated monthly report with case status updates.

HQIU Deputy Chief Stephanie Whitley provided a brief background of her experience and qualifications and indicated she is happy to be back working on cases for the Medical Board. Ms. Whitley takes pride in the relationships she has built with various agencies throughout the state.

Ms. Lubiano welcomed Ms. Whitley.

Mr. Watkins, Ms. Lubiano, and Ms. Nicholls discussed HQIU field office visits and what she has learned.

Dr. Hawkins and Ms. Nicholls discussed vacancy rate and onboarding of investigators.

Dr. Healzer and Ms. Nicholls discussed investigator pay, and Ms. Nicholls pointed out that the Department of Justice investigators make about \$2,000 more a month than HQIU investigators. She pointed out that it costs a lot of money to lose investigators and then have to train and onboard new investigators.

Dr. Mahmood and Ms. Nicholls discussed the entry level pay scale for investigators.

Dr. Tsai asked about who sets the pay scale, and Ms. Nicholls responded that it is CalHR, but the contract goes through negotiation.

[Public comments on Agenda Item 7 were provided by:](#) No public comment.

Agenda Item 8: Discussion and Possible Action on Legislation ([Link to Video](#))

Mr. Bone directed Board members and staff to the Tracker lists provided in the Board packet and highlighted the two items shaded in blue. Mr. Bone recommended no discussion and action taken on those specific bills. Mr. Bone stated AB 470 has not been amended since the Board adopted a support position. SB 373 has been recently amended and no longer impacts the Board.

Legislation

AB 242 ([Link to Video](#))

This bill would make temporary and permanent exception to the ban on corporate practice of medicine at critical access hospitals. The Board did not take a position on the bill that established this exception. Staff recommends the Board do the same on this relatively narrow and existing exception ban on the practice of medicine. If the Board agrees with staff recommendation and does not take a position, no motion or action is required.

Dr. Thorp, Dr. Hawkins and staff discussed the purpose of the bill.

[Public comments on AB 242 were provided by:](#) No public comment.

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

This bill prevents anyone from using a medical specialty title or referring to themselves as an osteopathic medical doctor without being licensed as a physician. The Bill also includes numerous examples of specialty titles associated with physicians but is intended to include any title that indicates or implies the person is using it as a license to practice medicine. Recent amendments

are described in the analysis and additional clarifications for providers in the appropriate use of those terms. Staff recommends the Board maintain its support position which was taken in the prior Board meeting. No motion is required.

[Public comments on AB 765 were provided by:](#) No public comments.

AB 796 ([Link to Video](#))

This bill would establish the Athletic Training Act and the Athletic Trainer Committee within the Medical Board of California. The bill provides for a scope of practice, title protection, and notable separate committee within the Board to oversee this work. The committee would be authorized to hire its own staff to perform this work. Analysis notes the number of concerns with the current language. Mr. Bone added the bill was recently amended i and staff has not had a chance to fully evaluate all aspects of the bill, however, he pointed out that the Medical Board's highest priority is consumer protection, but similar language is not provided for this bill for the athletic trainers. There is no authority for the committee to obtain fingerprints or perform a criminal background check, no provision for denying registration for a registered sex offender, no online verification option for consumers to verify the registration of a trainer, and no limits on the number of athletic trainers a physician can supervise at one time. Further, the committee would rely on a private non-profit organization to investigate and revoke certification.

Staff recommends an opposed position.

Mr. Bone and Mr. Watkins briefly discussed there are many bills with similarities and a possible earlier version of this bill was previously discussed at the Physical Therapy Board.

Dr. Healzer and Mr. Bone briefly discussed what it would cost the Board to implement the committee.

Dr. Tsai and Mr. Bone briefly discussed how the committee would be funded.

Dr. Tsai and Mr. Bone briefly discussed what Board would oversee Athletic Trainers committee in other states and what board would be appropriate to oversee in California.

Board members and staff discussed the request to the author to extend the bill into a two-year bill to allow more time for consideration, and discussed the Board's resources and consumer protection. The discussion included the possibility of another board or a stand-alone board for the athletic trainers.

Mr. Ryu moved to oppose unless amended S:/ Dr. Tsai, 5-4, 1 Abstain, (2 Absent) Motion carried.

[Public comments on AB 796 were provided by:](#) [Tiffany Ryan](#), Tom Abdanor, David Gonzales, Brice Dockerty, and Rosanna Davis.

(Mr. Watkins left the meeting.)

AB 1070 ([Link to Video](#))

This bill would allow a physician to supervise an unlimited number of Physician Assistants who are performing home health evaluations of their patients. The bill uses vague terminology to describe what occurs within such a patient encounter. The bill does state that in these evaluations no direct patient treatment or prescribing of medication is allowed. Mr. Bone stated he has met with the author's office and a representative of the sponsor and requested additional information regarding what happens during these visits and why it is necessary to remove the existing supervision limitations. Mr. Bone further stated he reviewed information from the author's office including a document prepared by the sponsor, which was distributed to the members, and the document states that during these home visits the clinician will review the patient's current and past health conditions, perform diagnostic tests when appropriate, examine the home for safety hazards, and discuss social determinants of health. Furthermore, they review medications for contraindications, check for physical safety concerns, and determine whether there is any food insecurity. Any information gathered is reported to the patient's primary care provider. Mr. Bone further advised that the sponsor stated that if some level of supervision of the physician assistant is still necessary, the suggested maximum ration is 10:1. If the Board believes supervision is required for physician assistants, it could consider whether a 10:1 ratio is appropriate and if agreed, staff recommends adopting an opposed unless amended position to impose a 10:1 ratio.

Board members and staff discussed various concerns regarding the scope of the bill, consumer protection, ratio of physician assistants to physicians, and what the overall model entails.

Dr. Bholat suggested opposing the bill.

Dr. Bholat moved to oppose AB 1070 S:/ Dr. Tsai, 9-0, (3 Absent) Motion carried.

[Public comments on AB 1070 were provided by:](#) Marianne Hollingsworth.

AB 1369 ([Link to Video](#))

This bill exempts certain out of state physicians from the requirement to obtain a license so that they may treat patients via telehealth that have a disease or condition that is immediately life threatening provided the physician is licensed in another state with a criteria similar to this Board. Under current law any qualified out of state physician may receive a license to practice medicine and may treat patients in California. Eliminating licensing requirements to practice medicine especially for a fragile patient population erodes consumer protection. The bill does not state who will determine whether the physician in question meets the criteria for the exemption nor would it disqualify those with a history of discipline. Ultimately, staff believes this bill is unnecessary and it increases the risk that patients will receive treatment below the standard of care. Accordingly, staff recommends an oppose position.

Dr. Healzer moved to oppose S:/ Dr. Thorp; 9-0, (3 Absent) Motion carried.

[Public comments on AB 1070 were provided by:](#) Kelly Goss, Angela Ramirez-Holmes, Sarah Goodman, Rosie Arthursdotter, and Colleen Decker.

AB 1395 and AB 1396 ([Link to Video](#))

Mr. Bone stated as in prior Board meetings these bills will be presented together as they are both dealing with the Mexico Pilot Program. AB 1395 requires the Board to issue an MPP to an applicant without an ITIN or social security number, provided they meet the various requirements. The Board adopted a support position on this bill at prior meetings and it has not been amended, so no action is required.

AB 1396, includes the same language from AB 1395 with additional proposals which allow the MPP license holders to get an extension on their license. Under current law the MPP is issued for a three-year period and may not be renewed. After the prior Board meeting, the Board gave direction to staff about amendments to the expiration extension provisions. Staff continued to work with the MPP advocates to align the extension language with the Board's approved position. Staff expects the language will go into the Board's Sunset Bill, SB 815, at a later date.

Dr. Healzer moved to support S:/ Dr. Tsai; 10-0, (2 Absent) Motion carried.

[Public comments on AB 1395 and AB 1396 were provided by:](#) No public comments.

AB 1646 ([Link to Video](#))

Mr. Bone stated under current Board regulations, an out of state resident in an ACGME approved program may participate in a guest rotation and practice in California without a license for up to 90 days if they participate in a California training program. This bill would remove the requirement for participation in a California training program. Importantly, these residents would still be required to remain in their out of state accredited program. This is expected to modestly increase access to currently available California based training for out of state residents. Staff recommends a support position.

Dr. Bholat and staff discussed the culpability of out of state physicians without a license.

Dr. Mahmood moved to support S:/ Dr. Tsai; 8-0, 1 abstain (3 Absent) Motion carried.

[Public comments on AB 1646 were provided by:](#) Lisa Matsubara.

AB 1707 ([Link to Video](#))

This bill is intended to protect California licensed healthcare professionals from adverse licensing and disciplinary actions in the state because they were subject to an adverse action by another jurisdiction for performing a sensitive service that would be lawful in California. The bill defines sensitive services to include mental, behavioral, reproductive and gender care services. The bill would shield a healthcare professional from facing reciprocal discipline in California if they were

disciplined or faced other type of criminal or civil sanction in another state for conduct that would be lawful in California. The Board's current practice is to not take action in these situations and it is not expected to impact the Board's licensing or disciplinary programs. Staff recommends a support position.

Dr. Mahmood moved to support S:/ Dr. Tsai; 8-0, 1 abstain (3 Absent) Motion carried.

[Public comments on AB 1707 were provided by:](#) Lisa Matsubara, Lucas Evanson, and Nicole Arnetta.

AB 1731 ([Link to Video](#))

This bill exempts a healthcare professional from the requirement to consult CURES when providing buprenorphine in an emergency department of an acute care hospital. This bill would help providers save time when certain patients experiencing opioid withdraws in the emergency department. The analysis discusses some of the existing exceptions to the requirement to check CURES under the current law. The bill is sponsored by the chapter of the American College of Emergency Physicians. Any consumer protection risks are expected to be minimal; therefore, staff recommends a support position.

Dr. Hawkins questioned how much time is actually saved pulling up CURES and checking CURES records to make a determination.

Dr. Healzer moved to support S:/ Dr. Thorp; 9-0, (3 Absent) Motion carried.

[Public comments on AB 1731 were provided by:](#) Tim Madden, and Rosie Arthursdotter.

SB 339 ([Link to Video](#))

This bill expands the existing authority for pharmacists to provide the HIV pre-exposed prophylaxis or PREP to patients by allowing them to provide a 90-day supply or longer under certain conditions. Current law allows a qualified pharmacist to provide HIV PREP medications to their patients but only up to a limited 60-day supply every two years. One of the requirements is for the pharmacist to attempt to obtain consent to notify the patients primary care provider. Under this bill, the pharmacist could provide a 90-day supply and continue to furnish the medication beyond that time if they meet various conditions and follow up care consistent with CDC guidelines; the pharmacist maintain documentation of services provided; the pharmacist attempts to obtain consent to notify the patients primary care provider; and if they do not obtain consent, shall provide the patient a list of providers within their region. This bill requires the State Board of Pharmacy in consultation with the Medical Board to adopt regulations and implement these requirements. Staff recommends a support position.

Dr. Tsai and staff discussed the requirements under current law to notify a patient's primary care provider.

Dr. Hawkins and staff briefly discussed prior collaboration between the Board and Pharmacy Board.

Dr. Thorp discussed with staff possible opposition to the bill.

Dr. Tsai requested confirmation regarding the changes in the bill from current law. Dr. Tsai expressed concerns regarding lack of physician follow up to prevent complications.

Dr. Bholat mentioned she was in support of the bill.

Dr. Tsai moved to support S:/ Dr. Bholat; 9-0, (3 Absent) Motion carried.

[Public comments on SB 339 provided by:](#) Craig Pulsipher.

SB 372 ([Link to Video](#))

This bill requires DCA Boards to change the name and gender of a licensee as it appears online in license lookup in the Boards records. This bill is intended to eliminate dead-naming which is when someone refers to the prior name of someone who is trans or non-binary. The Board currently accommodates name and gender changes but does not remove the reference to the prior name in situations where the licensee has a disciplinary history. Board staff have already been working with DCA, other Boards and the author's office on the challenges and concerns noted on page three of the analysis. Staff suggests the Board send a letter with any concerns and priorities including the three items noted: ensure that any cost to implement the bill is minimized including the DCA Board shall not have to alter any publicly available records; ensure that consumers maintain access to disciplinary records under the licensee's former name; and limit the bill to those who have changed both their name and gender but with consideration of those escaping domestic violence. Overall, there is expected to be a small number of licensees who meet that criteria and have a disciplinary history.

Board members and staff discussed in detail whether to maintain neutral position or support if amended. Mr. Ryu discussed a motion to support if amended and Dr. Thorp discussed remaining neutral and adopting staff's proposal. Board members further discussed that, if all the conditions are met in the draft letter to the author, a support if amended position would be appropriate.

Mr. Ryu moved to support if amended S:/ Dr. Mahmood; 9-0, (3 Absent) Motion carried.

[Public comments on SB 372 provided by:](#) Randall Hager.

SB 345 ([Link to Video](#))

This bill is similar to AB 1705, that was discussed earlier, which the Board adopted a support position on, SB 345 and would enact legal precautions for healthcare providers in California that are sanctioned because they are providing reproductive or gender care services in other states or

jurisdiction. SB 345 would prevent the Board from denying an application for licensure or disciplining a Board issued license related to a licensee providing a legally protected healthcare activity which is defined in the bill, in another state. SB 345 does not protect a physician who provides services below the standard of care. Like AB 1707, the bill proposes to address the risks related to physicians providing treatment that is lawful in California but may not be in other states. The Board's practice is to not take reciprocal discipline in these situations and the bill is not expected to change the Board's disciplinary program. The Board's analysis does note a concern, as the bill could potentially shield the licensee from discipline if they knowingly provide medical care in another state without a license. In such situations, the provider could still face discipline or other sanctions from that other state but not California. The bill's proponents have expressed their desire to work with the Board on any concerns in this regard. Staff recommends a support position.

Mr. Mahmood moved to support if amended S:/ Dr. Tsai; 8-1, (3 Absent) Motion carried.

[Public comments on SB 345 provided by: Dr. Kelly Pfifer, Natalie Bernbaum, Dr. Nicole Arnetta, and Dr. Anna Cotino.](#)

SB 524 ([Link to Video](#))

Mr. Bone indicated that this bill was held as of that morning, so it was skipped.

SB 544 ([Link to Video](#))

This bill would facilitate the use of online only meetings by any state body subject to the Bagley-Keene Act. If the state body takes advantage of the option provided in the bill, a physical location to the public where they participate in the meeting and address the state body. Analysis sets forth the various requirements; however, Mr. Bone he would note for the Board members if they participated remotely, they would e required to disclose any other persons the age 18 years or older present in the room at the time of their participation in the meeting as well as the general nature of the relationship. Staff recommends a support position on this bill.

Dr. Tsai moved to support S:/ Dr. Thorp; 9-0, (3 Absent) Motion carried.

[Public comments on SB 544 provided by:](#) No public comment.

SB 636 ([Link to Video](#))

This bill requires any physician or psychologist involved in utilization review related to a Workers Compensation claim by a private employer to be licensed in California. The bill also states the physician in question shall have the same duty of care to the injured worker as the treating physician. Utilization is already related to the practice of medicine and is intended to ensure appropriate treatment for injured Californians. Staff recommends a support position for this bill.

Dr. Hawkins and staff briefly discussed if the bill could potentially delay evaluation of a workers compensation claim.

Dr. Bholat discussed concerns regarding out of state workers compensation doctors providing care without oversight. Ms. Webb provided clarification that physicians providing care to injured workers in California must be licensed in California, and that this bill would require utilization reviewers to also be licensed in California.

Dr. Thorp moved to support S:/ Dr. Mahmood; 9-0, (3 Absent) Motion carried.

[Public comments on SB 636 provided by:](#) Steve K.

SB 784 ([Link to Video](#))

This bill expands existing exemptions on the corporate practice of medicine to allow any healthcare district hospitals to directly employ physicians in those facilities. Mr. Bone advised the Board SB 784 became a two-year bill and would not be expected to continue moving through the legislative process until January 2024. However, if the Board chooses it may take a position or wait for any future changes on the bill and can be discussed at a later Board meeting. Staff recommends an opposed position on this bill.

Board members and staff discussed opposing the bill. Dr. Thorp stated many changes are needed and opposition would provide more influence to affect the outcome of the bill. Dr. Mahmood expressed delaying a motion instead of deciding at today's meeting. Ms. Lubiano stated she would be in favor of opposing.

Ms. Jeong requested clarification from staff regarding staff recommendation to oppose or delay the bill due to the bill becoming a two-year bill.

Dr. Thorp moved to oppose S:/ Dr. Healzer; 8-0, 1 Abstain (3 Absent) Motion carried.

[Public comments on SB 784 provided by:](#) No public comment.

SB 815 ([Link to Video](#))

Mr. Bone discussed SB 815, the Board's Sunset bill. Mr. Bone stated as currently drafted, the bill contains multiple items requested by the Board most notably, the request for fee increases, establishment of a Complainant Liaison Unit, and a four-year Sunset extension. The analysis notes the various items in the bill which are numbered 1-20. There are multiple areas of the bill where staff had comments for the Board's consideration and included suggested conceptual amendments to improve the bill and address technical drafting errors. During the prior Sunset review two years ago, the Board received opposition to the Board's proposed fee increase. Unfortunately, the Board's financial situation continues to degrade. Although the bill as drafted comes with a support if amended recommendation, staff will continue to work with the legislature and ask to approve SB 815 with as many provisions as possible the Board is seeking.

Dr. Thorp requested confirmation from staff SB 815 was passed in the Senate Appropriations Committee as is. Mr. Bone confirmed that to be true. Mr. Bone requested the Board adopt a support if amended position on SB 815. Board members and staff discussed concerns about the bifurcated burden of proof that is currently in SB 815.

Dr. Healzer moved to support if amended S:/ Dr. Tsai; 9-0 (3 Absent) Motion carried.

[Public comments on SB 815 provided by:](#) Lucas Evanson, Kimberly Turbin, Eric Andrist, Marianne Hollingsworth, Tracy Dominguez, and Michele Monseratt-Ramos.

RECESS

Friday May 19, 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:

Randy W. Hawkins, M.D., Vice President
Michelle Anne Bholat, M.D.
James M. Healzer, M.D.
Nicole Jeong, J.D.
Laurie Rose Lubiano, J.D., Secretary
Asif Mahmood, M.D.
David Ryu
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Members Absent:

Kristina D. Lawson, President
Ryan Brooks

Staff Present:

Aaron Bone, Chief of Legislation and Public Affairs
Jacoby Jorgenson, Business Services Office Manager
Tonya Morairty, Associate Government Program Analyst
Marina O'Connor, Chief of Licensing
Alexandria Schembra, Associate Government Program Analyst

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Angel Vang, Information Systems Branch Analyst
Reji Varghese, Deputy Director
Kerrie Webb, Staff Counsel

Agenda Item 9: Call to Order/Roll Call/Establish of a Quorum (Link to Video)

Vice President Hawkins called the meeting of the Medical Board of California (Board) to order on May 19, 2023 at 9:04 am. A quorum was present and due notice was provided to all interested parties.

Agenda Item 10: Discussion and Possible Action on Adoption of the Controlled Substances Prescribing Guidelines (Link to Video)

Mr. Varghese stated the project of updating the Prescribing Guidelines was initiated in January 2021, and at that time President Lawson appointed Mr. Brooks and Dr. Thorp to the Prescribing Guidelines Task Force. The Task Force created the initial draft and was disseminated to many of the stakeholders and interested parties' meetings were held July 14 and November 15, 2022. The meetings were held for public input on the revised guidelines.

Mr. Varghese thanked Susan Cady and Letitia Robinson for their contribution to the Prescribing Guidelines document. He also mentioned Dr. Thorp would summarize some of the updates in the guidelines.

Dr. Thorp thanked Ms. Cady, Ms. Robinson, and the executive staff for their persistence in trying to develop a document that is manageable. Dr. Thorp recognized the concern with the Prescribing Guidelines from the public and licensing sector. He recognized it is a complex issue and mentioned the document is not perfect, as there are issues that still need to be resolved.

Dr. Thorp further stated this document will need to be revisited multiple times over the next year to get it right and provide insight into the complexities of prescribing pain medications and expressed the desire to continue working on the document to improve the Prescribing Guidelines to treat chronic pain while ensuring physicians are not at risk of losing their license for effectively treating pain. Dr. Thorp stated that we are trying to create an environment in California where chronic, intractable pain is not a curse, and where patients and doctors who try to deal with this difficult problem are not cast aside because of the challenges. Documentation of the reason for prescribing pain medication, evaluation of other alternatives, a determination that the medication being prescribed is the best option, and an indication that the medication is being prescribed at the best dose to improve functionality for the particular patient are the primary goals of the approach in these guidelines.

Dr. Thorp advised that Dr. Sean Mackey, Chief of Stanford University's Division of Pain Medicine, could not attend; however, he prepared a written statement that Dr. Thorp read to the Board.

Dr. Thorp reminded the Board that if the guidelines were adopted, there would need to be a lot of work done within the Medical Board to educate investigative staff and the AG's office. He further

stated there is work to be done within the Board of Pharmacy, as there is an issue with the supply of available pain medications.

Dr. Bholat provided insight into the challenges of treating chronic pain and expressed her support for the guidelines.

Mr. Watkins expressed his concerns with the challenges of regulating the guidelines and medications. Mr. Watkins stated the medical documentation needs to explain the reasoning behind the medication, which makes him feel more comfortable.

Dr. Tsai requested clarification if the adopting the document was permanent or would it continue to be revised internally. Dr. Thorp indicated that the Board may have to revisit the document and amend it as appropriate.

Ms. Lubiano requested the roll out timeline of the document would be. Dr. Thorp stated it would be helpful to host a webinar and in-person to promote the approved guidelines. Ms. Lubiano and Dr. Thorp continued a discussion regarding the outreach and implementation of the guidelines.

Dr. Hawkins and Dr. Mahmood spoke about various outreach opportunities.

Ms. Webb suggested the Board delegate authority to the task force to make non-substantive changes to the language as the Board works through the document before posting the guidelines on the website.

Dr. Bholat moved to approve the Prescribing Guidelines and give authority to the task force to make further non-substantive changes to the Prescribing Guidelines S:/ Dr. Healzer; 10-0 (2 Absent) Motion carried.

[Public comments on Agenda Item 10 provided by:](#) Lucas Evenson, Kate Nicholson, Rosie Arthursdotter, Laurie Long, Amy Partridge, Tom Hiyashi, Monty Goddard, Eric Andrist, Kristen Ogden, Rhonda Favarro, Andrea Anderson, and Tamara Lynn Stewart.

Agenda Item 11: Discussion on the Initial Report of the Enforcement Monitor ([Link to Video](#))

Mr. Les Lombardo and Mr. Randall Summer with Alexan RPM, Inc., provided an overview of the Enforcement Monitor Review, highlighting key areas of the report following several months of investigation. Mr. Lombardo discussed the summary of the initial report and identified four areas for improvement for the Board, including addressing inadequate investigator staffing; lack of collaboration between investigators and prosecutors; shortage of specialized medical expert reviewers; and lack of sufficient funding to maintain Board operations. Mr. Lombardo provided several possible solutions to improve Board operations, and stated a final report will be available at the end of July 2023, and will include more detailed and enhanced recommendations for the Board to consider.

Dr. Healzer asked Mr. Lombardo if he has had contact with the legislature since the last report. Mr. Lombardo confirmed there has not been contact with the legislature and his role is to submit a report to the legislature and the legislature decides whether to entertain the report.

Mr. Watkins discussed his appreciation for the details of the report and his concerns with the relationship between investigators and prosecutors.

Dr. Thorp and Mr. Lombardo discussed concerns with the Board remaining underfunded and the request with the fee increase to maintain Board operations and he is hopeful this information is relayed to the legislature. He also raised the issue for recommendations for collaboration between investigation and prosecution.

[Public comments on Agenda Item 11 provided by:](#) Marianne Hollingsworth

Agenda Item 12: Discussion of the Postgraduate Training License and Physician's and Surgeon's License Application Process ([Link to Video](#))

Ms. O'Connor gave a presentation on the postgraduate training license (PTL) and the physician's and surgeon's license application process. Ms. O'Connor highlighted several key areas of the application submission process and the explanation of the steps throughout the application process.

Dr. Healzer and Ms. O'Connor discussed license issuance emails being sent every other week and not the same day.

Dr. Tsai and Ms. O'Connor discussed application turnaround times.

Dr. Bholat and Ms. O'Connor discussed automation in the application process.

Dr. Thorp and Ms. O'Connor discussed improving efficiency within the Board and streamlining processes.

[Public comments on Agenda Item 12 provided by:](#) No Public Comments.

Agenda Item 13: Discussion and Possible Action on the Requirement of Successful Progress Through 24 Months of Post-Graduate Training in the Same Program for the Initial Renewal of a Physician and Surgeon's License ([Link to Video](#))

Ms. O'Connor stated effective January 1, 2022, BPC section 2097(a) requires Physician's and Surgeon's licensed on or after January 1, 2022, to provide proof of credit for 36 months of board-approved postgraduate training, including successful progression through 24 months in the same program, as a condition of their initial renewal. BPC section 2097(c) gives the Board discretion to determine substantial compliance with this requirement. Ms. O'Connor continued with a detailed report and provided recommendations to the Board to consider removing the requirement under BPC section 2097(a) and specify criteria for when a licensee is exempt from obtaining credit for

successful completion of 24 months training in the same program, such a resident that does not have any disciplinary or conviction history and no performance issues identified by previous training programs.

Dr. Bholat and Ms. O'Connor discussed trainee oversight and accountability and the upsides and downsides of both recommendations by staff.

Dr. Healzer and Ms. O'Connor discussed performance issues and asked if the Board has access to clinical competency evaluations submitted by the program to the certifying Board and if it would be a possible proxy to this measurement. Ms. O'Connor indicated that the Board does not ask for such documents up front.

Dr. Tsai mentioned recommendation #1 would give more latitude to the Board and moved to adopt staff recommendation #1.

Dr. Tsai moved to adopt recommendation #1 S:/ Dr. Thorp; 10-0 (2 Absent) Motion carried.

[Public comments on Agenda Item 13 provided by:](#) Lucas Evanson, Deana McCray, Susan Gralnick, Daniel Giang, Dennis Cuevas Romero, and Katrina Reyes.

Agenda Item 14: Discussion and Possible Action Related to the Midwifery Advisory Council (MAC) ([Link to Video](#))

Ms. Wisner provided several updates for the (MAC) and requested the Board approve the Midwifery Advisory Council's (MAC) recommendation to appoint Mason Wilson-Tanev to the licensed midwife member position and appoint Dr. Kenneth James to the licensed physician member position effective May 20, 2023, for a three-year term that will expire June 30, 2026. as well as approve several agenda items for the next MAC meeting.

Dr. Healzer moved to approve the requested appointments to the MAC and to approve the requested agenda items S:/ Dr. Mahmood; 10-0 (2 Absent) Motion carried.

[Public comments on Agenda Item 14 provided by:](#) Rosanna Davis.

Agenda Item 15: Discussion and Possible Action to Amend Title 16, California Code of Regulations, Sections 1364.10 and 1364.11 Regarding Citations and Fines ([Link to Video](#))

Ms. Webb advised the Board that following the December 2022 Quarterly Board meeting, where the Board discussed and approved the text to update and streamline the Board's cite and fine regulations, she made some additional modifications to refine the language and provide further clarity that the cite and fine regulations apply to all the Board's licensee's, certificate holders and registrants. Ms. Webb stated she also removed redundant language

and made changes to accommodate code sections that have different fine limitations and factors for review when determining the appropriate level of fines.

Ms. Webb requested a motion to do all of the following: 1) approve the text; 2) direct staff to prepare the necessary regulatory documents to submit to DCA and the Business and Consumer Affairs Housing Agency; 3) upon DCA and Agency approval, submit the rulemaking to the Office of Administrative Law to notice proposed regulatory language to amend §1364.10 and §1364.11 of Division 13, of Title 16, of the California Code of Regulations; and 4) if no substantive adverse comments are received during the 45 day comment period, authorize staff to finalize the rule making file and submit to DCA and agency upon approval; to the Office of Administrative Law and to make any technical or non-substantive changes without returning to the Board.

There were no public comments on this item.

**Dr. Healzer moved to approve the recommendation/S: Dr. Mahmood; 10-0 (2 Absent)
Motion carried.**

[Public comments on Agenda Item 15 provided by:](#) No public comment.

Agenda Item 16: Future Agenda Items ([Link to Video](#))

Dr. Hawkins anticipates completing a presentation on maternal mortality and morbidity for the next Board meeting in August 2023.

Dr. Healzer requested the Board set 2024 Board meeting dates at August's Board meeting.

Mr. Watkins requested to add the 14-point plan that he presented at the December 2022 Board meeting.

Dr. Bholat requested the Board discuss artificial intelligence and intersection with medical practice, who's documentation is it?

Ms. Lubiano requested an update on the DEI Committee and implementing it into the Board's Strategic Plan.

[Public comments on Agenda Item 16 provided by:](#) Marianne Hollingsworth.

CLOSED SESSION

Agenda Item 17: Pursuant to Government Code Section 11126 (a)(1), the Board will Convene in Closed Session to Discuss and Take Possible Action to Appoint an Executive Director.

Agenda Item 17: Adjournment ([Link to Video](#))

DRAFT