MEDICAL BOARD
OF CALIFORNIA
Protecting consumers by advancing high quality, safe medical care.

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

Embassy Suites South San Francisco
250 Gateway Boulevard
South San Francisco, CA 94080
July 26 – 27, 2018

MEETING MINUTES

Thursday, July 26, 2018

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

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

Members Absent:
Sharon Levine, M.D.

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

Members of the Audience:
Megan Allred, California Medical Association
Eric Andrist

Howard Backer, M.D., Director, Emergency Medical Services Authority
Alisa Balao, Investigator, Health Quality Investigation Unit, Department of Consumer Affairs
Carmen Balber, Executive Director of Consumer Watchdog
Gloria Castro, Senior Assistant Attorney General, Health Quality Enforcement Section, Attorney General's Office
Zennie Coughlin, Kaiser Permanente
Julie D'Angelo Fellmeth, Center for Public Interest Law
Long Do, California Medical Association
Louis Galiano, Videographer, Department of Consumer Affairs (DCA)
Marc Gonzalez, Investigator, Health Quality Investigation Unit, Department of Consumer Affairs
Julie Guarino, Supervising Investigator, Health Quality Investigation Unit, Department of Consumer Affairs
Christina Hildebrand, a Voice for Choice Advocacy
Anne Hernandez
Marian Hollingsworth
Susan Lauren
Mark Loomis, Area Commander, Health Quality Investigation Unit, Department of Consumer Affairs
Arthur Mirin
Steve Muni, Supervising Deputy Attorney General
Kathleen Nicholls, Deputy Chief, Health Quality Investigation Unit, Department of Consumer Affairs
Hannah Rhee, M.D.
Virginia Sarr
Mark Scarlett, Supervising Investigator, Health Quality Investigation Unit, Department of Consumer Affairs
Rebecca Sernett, Investigator, Health Quality Investigation Unit, Department of Consumer Affairs
Anastasia Swartz, Investigator, Health Quality Investigation Unit, Department of Consumer Affairs

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

Dr. GnanaDev called the meeting of the Medical Board of California (Board) to order on July 26, 2018, at 2:17 p.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Election of Officers

Dr. GnanaDev asked for nominations for President. Dr. Lewis nominated Ms. Pines. Nomination supported unanimously (10-0-0, Wright absent).

Dr. GnanaDev asked for nominations for Vice President. Ms. Pines nominated Dr. Lewis.

Dr. Rhee expressed her concern that any person that occupies the role of Vice President should have experience in racial diversity and social justice.

Nomination supported unanimously (10-0-1, Wright).

Dr. GnanaDev asked for nominations for Secretary. Dr. Hawkins nominated Dr. Krauss.

Ms. Wright nominated Dr. Bholat.

Dr. Krauss made a statement highlighting his involvement in various committees of the Board over the past five years, in addition to his participation in the Federation of State Medical Boards (FSMB) and several work groups. He detailed real and perceived conflicts of interest that he has encountered as a Board Member. He concluded by elaborating reasons why he would be interested in holding the position of Secretary to the Board.

Dr. Bholat provided details of her professional history. She noted that she has served as a medical expert with the Board prior to being appointed as a Board Member. She highlighted her involvement with various boards and committees and emphasized the commonality that all of these groups work toward providing better healthcare for the public.

Mr. Andrist commented that it is a shame that both nominees have lawsuits pending against them.

Dr. Bholat was elected as Secretary (6-5-0 Dr. GnanaDev, Dr. Hawkins, Dr. Krauss, Mr. Warmoth, Dr. Yip).

Ms. Pines thanked Dr. GnanaDev for his leadership, passion, and effort to improve the Board and consumer protection.

Dr. GnanaDev expressed his pride in having been able to get the sunset bill passed through the legislature, but acknowledged that it was difficult on him and other staff members. He added that the Board was able to accomplish everything that it envisioned for the sunset bill, with the exception of two issues that are still being discussed. Dr. GnanaDev thanked his fellow Board Members and Board staff for their support and hard work.

Agenda Item 3 Public Comments on Items not on the Agenda

Ms. Hildebrand, A Voice for Choice Advocacy, provided details and implications of the settlement between the United States Department of Health and Human Services (HHS) and Robert F. Kennedy. Her concern is that all liability is removed from vaccine manufacturers and there is no way to sue a vaccine manufacturer in the event of a side effect from any vaccine.

Ms. Hildebrand continued to explain medical exemptions that can be given in California at the discretion of the doctor. She opined that the majority of medical doctors in California are not properly educated on what qualifies as a medical exemption, and additionally, many are afraid to provide medical exceptions for fear that their license will be revoked. She asked that the Board make it clear to doctors that they can write medical exemptions and that they will not be sanctioned for doing so.

Mr. Mirin, a retired applied mathematician, discussed myalgia encephalomyelitis also known as chronic fatigue syndrome or MECFS. He detailed some of the history of MECFS, the lack of knowledge surrounding MECFS in the medical community, and noted the prevelence of MECFS in communities. He elaborated on efforts he has made to collaborate with the California State Legislature, California Department of Public Health (CDPH), and asked that this topic be an agenda item at a future meeting.

Dr. Rhee, a member of the California Medical Association (CMA) and Ethnic Medical Organization Section, stressed the importance of understanding, tolerating, and practicing diversity. She expressed her concern that medical experts are being utilized and do not have any training or experience in ethnic diversity. She provided some reasons as to why she believes this to be true. She asked the Board to step up and recognize the importance of diversity in medical experts.

Ms. Lauren detailed her experience with a board-certified plastic surgeon that she was referred to by her doctor for a breast reduction. Her plastic surgeon altered her body without her permission and left her disabled and disfigured. She added that this doctor's medical records are inept, fabricated, and misleading. She shared her experience in court with the physician and the medical expert that testified on behalf of the Board. Ms. Lauren asked the Board to reopen the case and revoke the license of this doctor.

Mr. Andrist noted that he has asked for the Board's violations of the Public Records Act to be placed on the agenda seven times, and yet it still has never been an agenda item. He detailed the list of Members and Board staff that are facing lawsuits. He added that other Members of the Board are accomplices when they do not protect consumers. Mr. Andrist clarified that ignoring the consumer is not the best way to handle a situation; to the contrary, it makes it worse and is unprofessional. He reminded the Board that his relationship with the Board started due to the mishandling of his complaint, and he is now coming forward to hold the Board accountable.

Agenda Item 4 Approval of Minutes from the April 19-20, 2017 Quarterly Board Meeting

Dr. Lewis made a motion to approve the April 19-20, 2018 meeting minutes; s/Ms. Lawson. Motion carried (10-0-1, Wright).

Agenda Item 5 President's Report, including notable accomplishments and priorities

Ms. Pines reported she and Dr. GnanaDev had calls with executive staff to discuss the meeting agenda and other Board projects. She added that she had calls with DCA concerning executive officer salary, the DCA regulatory review process, legislative updates, and pro rata. Additionally, Ms. Pines provided details on the Board's Legislative Day and noted that several Board Members were in attendance in Sacramento. She discussed the new projects of the Board, such as the release of podcasts and the press conference to unveil the new Board iOS application.

Ms. Pines explained her vision for the Board under her presidency including a consumer first approach, reducing enforcement timelines, implementing patient notification, and the Physician Health and Wellness Program.

Dr. Rhee remarked that her non-profit organization, Global Health for Peace, could help bring peace to consumer protection. She offered that her organization could give the Board a presentation.

Agenda Item 6 Board Member Communications with Interested Parties

Dr. GnanaDev mentioned that he had conversations with the Governor's Office regarding reappointments. He added that he also had conversations with interested parties on two items related to the sunset bill that have not been finalized.

Dr. Rhee suggested that it would be beneficial for the sunset report to have goals and statistics.

Agenda Item 7 Presentation on Community Paramedicine Project

Ms. Pines introduced Dr. Backer, the Director of Emergency Medical Services Authority.

Dr. Backer began his presentation by explaining what the community paramedicine pilot project program is, why the focus of this program is on paramedics, and the different forms this project has taken based on the needs of various communities. He provided insight into how the study was conducted and provided statistical results of the pilot programs. He noted that with the exception of two programs, all showed a reduction in hospitalization rates. Dr. Backer spoke to some of the concerns of the Board, specifically paramedics not being adequately trained and that patients should be seen by a physician rather than a paramedic. He noted the benefits of the program, one being the reduction in emergency services for frequent 911 users, another being the success in alternate destinations such as mental health facilities or sobering centers. He emphasized that there were no bad outcomes related to this program and that the program is an outreach bridge to patients that are not getting services they deserve.

Dr. Backer asked that the Board reconsider opposition of the current legislation given the information he had presented.

Ms. Pines inquired if a third of the people who were in the pilot project had mental health problems.

Dr. Backer responded that a third to a fourth of the people who were eligible to be enrolled in the program were enrolled and taken to a mental health center directly.

Ms. Pines followed up by asking what happened to the people who did not get admitted.

Dr. Backer clarified that the patients went to the emergency department.

Dr. GnanaDev shared that the Board's concern stemmed from consumer safety, public protection, and the expansion of the scope of practice. He reiterated that the root concern is that paramedics would be allowed to make decisions, which could lead to a detrimental outcome. He concluded that he wonders if there is enough of a knowledge base by the paramedic.

Dr. Backer assured the Board that the paramedics are working under medical control and that there are additional levels of oversight. He added that there is a tremendous amount of quality assurance built into the program and reiterated that the paramedics are not making independent decisions beyond what they would normally make. For this reason, he sees the paramedics as expanding their role versus expanding their scope of practice.

Dr. Hawkins noted that though the 30-day readmission rate is not a hundred percent, the readmission rates in some of the communities have shown quite significant improvement. He inquired if it had been determined if there was any adverse availability of the emergency medical service (EMS) to respond to 911 calls. He also asked for more clarification on the navigator concept.

Dr. Backer stated that the program does not interfere with the 911 system and provided examples. He added that the current requirement of taking all patients to an emergency department is inflexible. He shared the benefits of expanding the role of paramedics in order to get patients to the services they need after proper screening, versus clogging up emergency departments. He concluded that their role would be to bring in patients and get them matched with appropriate services, which in turn will decrease frequent 911 calls.

Dr. Hawkins questioned if the pilot project is tabulating where the deficiencies are and where the services might need to go to provide what is needed for reoccurring patients.

Dr. Backer answered that they are independent community-based projects, designed at the community level around the community resources. He added that each pilot had general, standardized training in addition to project specific training.

Dr. Krauss noted that although he agrees that there are great opportunities to improve the care and health of Californians by such programs, strict protocols and oversight are key. He also explained his concerns of who employs the paramedics, if they will be privately employed, and the implications of privatization.

Dr. Backer agreed with Dr. Krauss and noted that the provider agency does not have control over the protocols, rather it is statutorily under the EMS medical director of the local EMS agency. There is a two-level authority oversight and health care systems also share a responsibility. He added that in the future there may be some form of reimbursement if the pilot programs are successful.

Dr. Yip mentioned that it might be helpful to work in conjunction with areas dominated by MediCare or Medicaid. He noted his surprise in seeing a low number of urgent care referrals.

Dr. Backer pointed out that the alternate destination urgent care project was cancelled due to low enrollment. He hypothesized that the low numbers were due to the informed consent forms that consumers needed to fill out in order to be transported. He added that there are no standards for urgent care in terms of powers, medical diagnostics, and treatment capabilities.

Dr. Bholat asked who would eventually be billed and who would be paying. She acknowledged the parts of the program that she liked, such as hospice and medication reconciliation, but she concluded that she has some lingering concerns.

Dr. Backer commented that the paramedic has an obligation to create a record when having seen a patient and provide it to either the hospital, or to the group managing the patient. He added that they act as a bridge until other services can be taken over, since it is not long-term management. He remarked that in other states, Medicaid provides funding on a fee-for-service basis. Dr. Backer concluded that once the program has demonstrated validity, there may be agencies that will reimburse the program.

Dr. Rhee remarked that it would be relevant to determine what percentage of the patients were of low socioeconomic status or non-white and if they benefited from the program. She questioned the implications if the program did not succeed.

Dr. Backer stated that the racial breakdown of the study is available.

Agenda Item 8 Update on the Board iOS Application

Ms. Kirchmeyer reported that the Board had a successful press release to launch the new iOS application and thanked Mr. Eichelkraut and Mr. Esmlami for their hard work developing the application. She noted that it is the first application in the country to directly notify patients when a change occurs to a physician's license.

Ms. Pines advised everyone with an iPhone to download the Board's application in the Apple store. She inquired how often consumers should expect an alert.

Ms. Kirchmeyer answered that the hope is that individuals only get an alert every two years when the physician's profile is updated. She noted that alerts will also be given if a doctor undergoes disciplinary action, updates their survey, or moves.

Ms. Wright inquired about consumers that are not Apple users.

Ms. Kirchmeyer commented that a large percent of the individuals that go to the Board's website are iPhone users. She added that Board staff is trying to work out any issues with the system first before developing an Android app. Therefore, the Board welcomes any feedback, which can be submitted via webmaster or the application itself. She remarked that once the application is working well and resources are identified, it will be developed for Android.

Ms. D'Angelo Felmoth, Center for Public Interest Law, congratulated the Board on the application, especially since it is the first in the country. She added that she was one of the testers and a person who can be technologically challenged. She noted that the application is

easy to navigate. She added that the application improves consumer protection since disciplinary action is sent as it is ordered versus waiting 30 days until the effective date.

Mr. Andrist listed his concerns with the application, since information is linked from the website. His distrust of the website stems from documents being missing and certain doctors should have disciplinary action on their profile and have nothing listed. Therefore, if the website does not have the correct information, the application will not have the correct information, which does not support consumer protection.

Mr. Andrist also inquired about what information the application collects from the consumer's iPhones, and if doctors are made aware of consumers that follow them. He also asked about the costs regarding maintenance and updates to the application.

Ms. Balber, Executive director of Consumer Watchdog, commented that although she would use the application, the Board is missing the point, since the website is not the best place to obtain disciplinary information. She pointed out that nothing can replace an in-person disclosure. She added that Senate Bill (SB) 1448 would require the disclosure of probation. Ms. Balber continued that although the application might be useful for a few, it is not the solution to ending transparency about physician misconduct. She urged the Board to redirect resources from the marketing and redirect them into improving transparency and the enforcement process.

Agenda Item 9 Discussion and Possible Action on Amending Title 16, California Code of Regulations, Section 1355.4

Ms. Webb explained that as part of the Board's sunset bill last year, SB 798, the Board asked that the Business and Professions (B&P) Code section 2026 be changed to extend the required notification to patients and clients to all licensees and registrants of the Board and expand the information provided in the notice. She added that the Board sought to make the required notification indicate that patients or clients can check up on the provider's profile and file a complaint by contacting the Board. She explained how licensees could be in compliance with the Board under the current regulations.

Ms. Webb noted that the new proposed language requires the Board's licensees and registrants to provide notice in the patient's or the patient's representative's primary language. She added that the notice must be a written statement in the patient's primary language and kept in the patient's chart with a notice and acknowledgement of receipt, or provided to the patient or the patient's representative to take with them.

Ms. Webb requested a motion to approve the proposed regulations, to allow Board staff to submit it to the Department of Consumer Affairs (DCA) and Business, Consumer Services, and Housing Agency (Agency) for review, and if approved to submit it to the Office of Administrative Law (OAL) for a 45-day comment period, to set a hearing, and to allow staff to make any non-substantive changes necessary.

Dr. Lewis made a motion to approve the proposed regulations, to allow Board staff to submit it to the DCA and agency for review, and if approved to submit it to the

Office of Administrative Law (OAL) for a 45-day comment period, to set a hearing, and to allow staff to make any non-substantive changes necessary; s/Ms. Lawson.

Dr. Yip suggested that the Board offer the notice translated in various languages so that the physicians can access it online and download it to provide to their patients.

Ms. Allred, California Medical Association (CMA), noted her concern over the proposed requirements, specifically to provide the notice in various languages, given California's diverse population. She added that the requirement would be virtually impossible for physician offices to comply with and noted that there is no statutory authority for this requirement under B&P Code section 2026 or 138. She requested that the Board remove this requirement or propose an alternative that would not add to the mounting administrative burdens on physician practice. Ms. Allred vocalized her support for Dr. Yip's recommendation of downloadable materials.

Dr. Lewis asked if DCA had access to multiple languages.

Ms. Kirchmeyer clarified that the current notice that is required is available to download on the website in English. She added that the Board may be able to help with translation services once the language was approved, or an alternative source for translation is Google translator.

Dr. GnanaDev voiced his support for Dr. Yip's idea. He noted that if the Board is to make something mandatory, the Board should be able to help.

Mr. Warmoth asked if the translated services would be a motion to the proposal.

Ms. Webb stated the addition to the motion would not be necessary, since it is a service that the Board can provide. She added that in terms of authority, the Code section reads that providers are to provide notice to their patients or clients. In order to do so effectively, they would need to be provided the notice in the language of their patients and clients for full understanding. Ms. Webb commented that if the provider is getting federal funding, translation services are mandatory. She concluded that the proposal is doable and within the Board's authority.

Motion carried unanimously (11-0-0).

Agenda Item 10 Executive Management Reports

Ms. Kirchmeyer shared that the Board is still unable to obtain any budget detail due to DCA's new accounting database. She added that there is still uncertainty as to when the reports will be received and until that time, the Board's expenditures for the close of fiscal year 17/18 are not available. She noted that the Board has been told that that the Board is projected to spend the entire budget. Ms. Kirchmeyer explained that the most up-to-date fund condition indicates the Board will be at 5.4 months reserve at the end of this fiscal year, however with the general fund loan being repaid, this total is projected to decrease to 1.7 months reserve at the end of fiscal year 19/20. She remarked that confirmation has been given that the remainder of the outstanding loan will be repaid very soon.

Ms. Kirchmeyer provided an update on the Board's restoration of the disciplinary documents that were required to be removed from the website from 2013 to 2015 in order to comply with the law. She noted that previously, approximately 15,000 documents needed to be added to the website, and that to the best of the Board's knowledge, all documents have been reposted. She noted that the law does not require the reposting of all documents. Ms. Kirchmeyer explained that accusations that are withdrawn or dismissed and certain enforcement agreements cannot be posted on the website pursuant to the law. In addition, public letters of reprimand are only posted for ten years. She added that the Board's website contains a document that has in-depth information regarding the laws that regulate the posting of information on a physician's record, and identifies what would and would not be posted and the length of time the documents need to be made available to the public.

Ms. Kirchmeyer referred to the Board's flyer regarding the mandatory use of the Controlled Substance Utilization Review and Evaluation System (CURES) and explained that it has been distributed to numerous organizations and to all licensees. She noted the high volume of questions regarding the mandatory use of CURES are being used to compile a document of frequently asked questions that will be released in August. She shared that she would also be assisting with a webinar discussing the requirements in August. Ms. Kirchmeyer reported that she has asked the Department of Justice (DOJ) to provide information on prescribing and CURES. She anticipates that these reports will be ready by the next Board meeting.

Ms. Kirchmeyer reported that the Board finalized the annual reconciliation of hospital and peer-reviewed data that is reported to the National Practitioner Data Bank (NPDB). She noted that during the reconciliation, three reports appeared to have been received by the NPDB that were not received by the Board and cases have been opened regarding these three reports.

Ms. Kirchmeyer informed the Board that she attended two Substance Abuse Coordination Committee meetings at DCA. She reminded that the Committee is made up of executive officers of every healing arts board, a designee from the Department of Health Care Services, and the Director of DCA. She noted that the Committee looked at edits to Uniform Standard #4 regarding biological fluid testing. She added that although a minor edit was made to allow boards to authorize travel for licensees who may need to travel out of country, no other edits have been made to date.

Ms. Kirchmeyer added that Board staff has been meeting with the Governor's Office and the Attorney General's (AG) Office on changes to vertical enforcement and potential legislative changes. She noted that if legislation is introduced after the Board meeting it may necessitate an interim Board meeting or an Executive Committee meeting. She stated that since Dr. GnanaDev and Ms. Pines are the two Board Members that have been historically working on this matter, it will remain as such until the all legislative changes are made.

Ms. Kirchmeyer drew the attention of the Board to three policy reports: regenerative and stem cell therapy practices, prescription drug monitoring programs, and physician wellness and burnout. All three reports were approved by the House of Delegates at the Federation of State Medical Boards (FSMB). She added that the Board may want to review these policies and determine if the Board wants to change any of its processes based upon these reports and provided examples. Ms. Kirchmeyer clarified that Board staff has determined that based upon

the report, two changes need to be made to the licensing application due to physician burnout and this will be released in 2020. She added that the state of California is in compliance with the recommendations of FSMB on prescription drug monitoring programs.

Ms. Kirchmeyer noted that a representative from FSMB will be attending the August 2019 Board meeting.

Dr. Krauss supported all of the recommendations made by FSMB and suggested a subcommittee be created to consider these options. He inquired if the new Governor would allow Board Members to attend the FSMB Conference in Texas in 2019.

Ms. Kirchmeyer remarked that Texas is on the banned list pursuant to the law but a request can be made for an exemption.

Dr. Krauss recommended that this be done.

Dr. GnanaDev asked if the State still owes the Board from the loan.

Ms. Kirchmeyer responded that there is still nine million dollars outstanding, however she added the money was supposed to be deposited soon.

Dr. GnanaDev noted that FSMB has provided a lot of discussion on physician burnout and what can be asked on applications, he inquired where the Board was with this topic.

Ms. Kirchmeyer added that two questions will be removed from the Board's application based on the input from FSMB.

Dr. Krauss inquired if a motion is needed to be made to establish a subcommittee.

Ms. Kirchmeyer stated a motion was not needed but asked Board Members to express their interest in being part of a subcommittee.

Mr. Andrist commented that he finds it hard to believe that all the documents that need to be posted have been replaced, since he has found missing documents from BreEZe. He added that documents have been added after he has sent public record requests, when he has discovered that they are missing. For this reason, he inquired how the Board knows that all the documents have been posted if the Board cannot be certain. He inquired how there is not a way to be certain, since the project is one that is mandated by law. Mr. Andrist vowed to continue to point out all the documents that are missing on social media.

Ms. Hollingsworth thanked the Board for the update on the disciplinary documents and noted her surprise that all documents had been posted since she envisioned it being a lengthier process. She inquired if she does find missing documents, to whom should that be addressed. She also asked if doctors will be able to see who is following them on the new phone application, since it could put consumers with gag orders in jeopardy.

Agenda Item 11 Presentation on the Investigation Process from the Investigator's Perspective

Ms. Pines introduced Ms. Guarino, Supervising Investigator from the Valencia district office, and Mr. Gonzalez, an Investigator from the Valencia office. She added that both have extensive experience investigating Board cases.

Mr. Gonzalez provided details about his work history and gave insight into the investigative process from the perspective of a peace officer. He added that all investigations are unique and contribute to protecting the public. He discussed the diverse backgrounds of people working on all stages of the case with the commonality that everyone cares and wants to humanize things. He provided examples of cases that he worked on and spoke to the human side of the job and the complexity of cases. Mr. Gonzalez shared the burden that has grown in order to move forward with meaningful prosecutions. He expressed the toll that it takes on an investigator since they pour their heart and soul into an investigation.

Ms. Guarino began by explaining the change in caseload and types of cases. She provided an example of how a case can come into the office and turn into a different case by the end. She noted that this is not uncommon, and one of the reasons why their investigative work is so important. She expressed that getting cases processed is a global challenge that takes everyone working together in order to meet the mission of the Board. She reiterated that each case file is representative of a person and the investigators take this very seriously.

Ms. Pines thanked the presenters for allowing the Board to be able to put a face to who performs the Board's investigations.

Ms. Wright noted that in the past there were particular concerns about bias relating to people of color or doctors of color and the investigative unit. She questioned if this was an issue and what has been done to mitigate this problem.

Ms. Guarino provided some background into the complaint process and how complaints ultimately get to the field. She remarked that all investigators were sent to implicit bias training, and that this topic is commonly addressed at staff meetings. She added that oversight built into procedures has helped mitigate the problem.

Ms. Wright asked what happens if there is a complaint about an investigator targeting certain groups.

Ms. Guarino confirmed that anything like that would be dealt with and falls under the category of progressive discipline that the state follows. She reiterated that it would not be tolerated.

Dr. GnanaDev remarked that he knows that staffing has improved, and he hopes that this will cut down timelines.

Dr. Yip inquired from their perspective what could be done in order to make the process smoother and to hold all parties accountable.

Ms. Guarino answered that providing more education and understanding regarding each person's role is vital. She explained that a good way to reduce timelines would be to somehow reduce the caseloads. She provided insight into what a caseload looks like and a unique perspective on collaborating with various offices. She detailed their role in partnering with the community, but noted that the downside is that more work is received as a result.

Dr. Yip questioned if there are medical consultants on site and if there is enough diversity in terms of specialties and knowledge.

Ms. Guarino shared the specifics of her office. She pointed out that collectively they are strong, but that they could benefit from more consultant hours.

Dr. Krauss elaborated that in the past the Board has been told that maintaining staff has been difficult due to pay. He invited the investigators to share anything that could be useful, so that the Board could lobby on their behalf. He pointed out that he thinks that the caseload issue could be linked to incorrectly assigned cases, or an inadequate cadre of investigators.

Ms. Sutton-Wills pointed out that despite an increase in volume intake, processing times have gone down since 2013. She inquired if there are certain types of cases that could use more time or resources.

Ms. Guarino opined that the cases are getting more complex. She added that there is a consistently high volume of cases that come in with a limited number of hours to process them. She added that any case that requires collaboration will invoke delays in processing.

Ms. Sutton-Wills requested more information be given about the limited number of hours that the medical consultants can provide.

Ms. Guarino explained that the numbers of hours worked corresponds to the classification.

Ms. Kirchmeyer noted that they are permanent intermittent employees, which means that they can only work up to so many hours. She defined that the current issue revolves around the budget, specifically with a fuller staff, the salary savings they once had are no longer there.

Dr. Lewis inquired about the quality of the medical consultants.

Ms. Guarino responded that without a doubt they are qualified consultants. She added that although she cannot speak for every office, she believes that the issue is quantity versus quality.

Dr. Lewis identified that medical consultants are union workers and as such they are involved in collective bargaining, which means that the only way to change salary would be to change the contract or go through the Governor's budget.

Dr. Rhee questioned if the implicit training should be something that is developed with the outcomes measured. She opined that since not all people are the same, it is important to have diversity training and experiences. She noted that medical consultants should be included.

Mr. Andrist requested to hear from the central complaint unit and medical experts that are closing complaints without investigation. He questioned why there is never an explanation when an accusation is dismissed or withdrawn. He provided an example of a doctor that had their accusation dismissed, resulting in a clean profile, which does not provide the consumer with a warning of the accusation.

Agenda Item 12 Vertical Enforcement Program Update from the Health Quality Enforcement Section

Ms. Castro provided an overview of the vertical enforcement program, furnished examples of items that they have presented in the past, offered to present to the Board, and supplied statistics. She noted that the statistics can be misleading in that one case can have four investigations, but the numbers do not convey this story. She opined that in the end it makes a more quality driven prosecution, since it will enhance consumer protection. She pointed out that the workload has increased and has been exacerbated by death certificate cases. Ms. Castro offered insight into the caseload of a Deputy Attorney General (DAG) with a breakdown of their caseload and time.

Dr. Yip inquired as a physician, how the AG's Office knows when a person is fraudulently using a physician's Drug Enforcement Administration (DEA) certificate to prescribe.

Ms. Castro answered that currently a patient can only be searched back to the time of a prescription. She explained some of the tools that can be utilized in CURES to obtain more information regarding prescribing. She suggested that it might be beneficial for the Board to receive a presentation from CURES.

Ms. Kirchmeyer noted that there is currently a bill in the legislature that would allow doctors to obtain their own CURES report. She continued that if the bill passes, this feature will be available January 1, 2019.

Dr. Lewis asked about fraudulent emails asking physicians for personal data to update CURES.

Ms. Castro commented that she was not aware of this.

Dr. Lewis explained a personal experience with DOJ and added that since the emails do not look official, it could be phishing.

Ms. Castro remarked that it should be reported to DOJ to be investigated.

Dr. GnanaDev asked how and when the timelines can decrease. He added that it is the responsibility of the Board and vertical enforcement to provide discipline on time, so that bad doctors do not hurt any more patients.

Ms. Castro noted that the AG's Office strives to streamline the process every day and provided recent examples of this. She pointed out the decrease in processing time by category. She recommended that when looking at cases, compare them to other DCA clients, and noted that

the other licensing boards have less complex cases, less funding, and the licensee usually has no defense attorney. She added that time is taken to conduct a thorough investigation and ensure due diligence.

Dr. GnanaDev asked to pinpoint the area causing delay.

Ms. Kirchmeyer pointed out that currently the investigation times are high due to the lack of staff, which has been roughly at over a 20% vacancy rate for two years. She continued that it has gone from 143 days in the Central Complaint Unit to 98 days, but the cases that go out to the field are at 505 days on average. She articulated that time delays stem from medical records and setting up interviews with the physician. Ms. Kirchmeyer noted that the accusation timeline has gone down to 64 days and it is around 300 days from accusation to final decision.

Ms. Castro added that there are quarterly case reviews performed and shared. She reminded the Board that the timelines are based on calendar days, so when analyzing in terms of working days the timeframes decrease.

Ms. Lawson stated that there is a lot of focus on numbers and that members of the public may be better served in having a deeper understanding of the process. She pointed out that the legislature uses numbers as a form of measure, but faster processing time does not indicate a better job. She clarified that she would not like to see time frames increase, but if that will lead to the best outcome, it would be in the interest of the consumer.

Ms. Castro agreed with Ms. Lawson and detailed that there is not as much focus on the outcomes of the cases. She pointed out that while timelines are going up, so too are surrenders and public protective actions.

Dr. Lewis echoed that focus on the outcome should not be lost. He added that although the timelines are up, if a thorough investigation is taking place to avoid errors, that it is understandable.

Dr. GnanaDev commented that it is not about assigning blame, but improvement needs to be made. He elaborated that this is the reason given by the legislature to move the HQIU employees from the Board to DCA. He continued, that although he understands what is being said, it does not take away from the fact that this is a serious issue that needs results.

Dr. Rhee questioned if the investigators are too passionate about prosecuting the cases. She added that an outcome of this could be a violation of civil rights. She inquired if the medical consultant has a bias interest in prosecuting the physician. She added that if this is the case, the medical consultant should excuse themselves.

Mr. Andrist remarked that Judge Feinstein, a former Member of the Board, noted in the January 2017 meeting that a DAG had not filed some information in a timely manner, and as a result a case was dismissed. He added that at that time Ms. Castro offered to look into the case, but no further information was reported. He inquired if doctors are not being disciplined due to the mistakes of a DAG. Mr. Andrist used the words of Judge Feinstein to express that 550 days for

a case implies that it is an old case and if it were a criminal case, it would be dismissed for violating speedy trial rights.

Mr. Andrist noted that a doctor from the morning panel had his license revoked in 1984 by the Board but asked why this information is not on his BreEZe profile. He added that a Board whose income is derived from a doctor's license fees cannot possibly be completely impartial to disciplining doctors.

Agenda Item 13 Update from the Attorney General's Office

Ms. Castro welcomed Steven Muni, new Supervising DAG, and Ryan Yates, a new DAG to the AG's Office. She provided details of their previous positions. She noted that staffing has not increased since 2006, but that positions have been redistributed to increase efficiency.

Ms. Wright remarked that she believes that it is within the purview of the DAG to work with experts on their reports in terms of the content and what is being analyzed.

Ms. Castro remarked that training is one way to combat this issue.

Ms. Kirchmeyer added that when the DAG gets the report, they can go back to the medical expert with any issues. She added that there are two analysts that work in the expert reviewer program to give feedback to the experts. She added that during prosecution, the medical experts are given feedback and after testifying, a report about their performance is put into the database.

Dr. Hawkins stated that Board Members should feel comfortable to express if they feel that there is a problem with the expert.

Dr. Rhee reiterated her concern that there could be a bias that may go unchecked and that could lead to further problems.

Agenda Item 14 Vertical Enforcement Program Update from the Health Quality Investigation Unit

Ms. Nicholls introduced Mr. Loomis, Commander over the Special Investigation and Training Unit. She provided more information about the program and gave the specifics of what it does.

Ms. Nicholls remarked that the biggest issue facing HQIU is caseloads versus staffing. She pointed out that there is enough staff, but it needs to be augmented by additional staff given the caseloads. Additionally, she clarified that the medical consultant hours are not separately funded, rather the funding comes from a blanket in the HQIU budget. Ms. Nicholls explained that over the last several years with so many vacancies, there were salary savings, but with positions filled there are now emergent problems, such as paying for medical consultant hours. She continued that if nothing is done to assist in fixing the structure in the next couple weeks, medical consultant hours may need to be cut, which would be catastrophic to timelines. Ms. Nicholls also explained the difficulty of scheduling physician interviews, and that it causes delays in timelines. She recited the current law regarding physicians attending and participating

in interviews with investigators and requested a change in the law to provide increased consumer protection. She also stated that it would be helpful if the investigators could require a biological fluid test from a physician if there is reason to suspect a physician may be impaired.

Mr. Loomis provided a staffing update for HQIU, reporting that they are fully staffed with 77 investigator positions, five of which have been given conditional job offers pending final clearance. He noted that two investigators are attending the six-month police academy with twelve more scheduled to attend. He shared that HQIU expects to make significant progress completing cases and reducing investigation timelines.

Dr. Krauss asked why their recruitment process was successful this time.

Ms. Nicholls responded that a successful model was having investigators speak to recruits, and, additionally, they reached out to many different groups and organizations.

Dr. GnanaDev expressed his concerns that now that all the positions are filled, employees may leave to go to other agencies. He thanked Ms. Nicholls for her wonderful ideas and added that the Board will try and work on them.

Ms. Nicholls added that during their pilot program they hired many non-sworn investigators, who proved to be a valuable resource for HQIU. She added that moving forward it may make sense to expand the non-sworn unit under the Board, so that the less serious cases do not impact the field.

Ms. Kirchmeyer remarked that Ms. Nicholls is the reason that many of the positions are filled, since she went to the leaders of DCA to push for quicker processing of backgrounds. Additionally, Ms. Kirchmeyer noted that the Board can look into the hiring of non-sworn investigators to help decrease the timeframes, especially with the cases from the death certificate project.

Dr. Rhee questioned if the investigators undergo diversity training. She added that it is relevant and important to understand a person's ethnicity and upbringing.

Mr. Andrist thanked Ms. Nicholls for her honest insight into the problems. He added that if the Board is having trouble keeping up with caseloads, it would make sense that legitimate complaints are being closed in order to keep up with the bare minimum. He noted that there are doctors that receive discipline for minor things and suggested this is true because it is easier to pursue than a more difficult case. Mr. Andrist shared a personal story of his sister being killed by a doctor and noted that this doctor's profile has no disciplinary action listed, despite the fact that he sued the doctor for malpractice.

Mr. Andrist continued that accused doctors should have to show up when scheduled and suggested legislative changes if it would assist in this process.

Ms. Sutton-Wills inquired about the training that investigators receive.

Ms. Nicholls explained that all investigators undergo diversity and implicit bias training.

Mr. Loomis added that all peace officers in the academy attend mandatory racial profiling training, which is recertified every few years. He stated that HQIU offers an implicit bias training and annually there is discrimination prevention training.

Agenda Item 15 Update on the Physician Assistant Board

Ms. Kirchmeyer noted that since no Board Member has been appointed to the Physician Assistant Board (PAB), she would provide the update. She reported that the PAB's last meeting was on April 23, 2018, and the next meeting will be in August 2018 in conjunction with the California Academy of Physician Assistants' annual conference. She stated that the PAB formed a budget subcommittee with two board members.

Ms. Kirchmeyer also remarked that there is a congressman in Washington D.C. that is introducing a bill, which allows physician assistants (PA) to be paid directly from Medicare. She elaborated that these are the components of "optimal team practice". She shared that the PAB met with CMA to introduce this proposal.

Ms. Kirchmeyer explained regulations that were adopted in 1983 addressed the fact that there were no accrediting bodies that reviewed accredited postgraduate PA programs. There are now accrediting agencies that review and accredit these programs and therefore the PAB will no longer need the PAB to review and approve these programs.

Agenda Item 16 Update on the Health Professions Education Foundation

Dr. Hawkins noted that on July 5, 2018, he was sworn in as the second Board Member for the Health Professions Education Foundation (HPEF).

Ms. Lawson shared that HPEF will be altering how it receives monies that are granted for loan repayment assistance, which in turn changes the mission, how HPEF operates, and the role of Board members. She clarified that it is a nonprofit department that sits within California state government. She detailed that in the 17/18 cycle there were 403 applications for the Stephen M. Thompson loan repayment program and 147 were ineligible, 256 were scored, and only 44 physicians were awarded approximately 3.5 million dollars. Ms. Lawson pointed out that there is a tremendous need across the state for funds for these purposes. She noted that there is pending legislation. She concluded by adding that HPEF launched an ambassador program which takes former loan recipients and turns them into ambassadors.

Ms. Pines adjourned the meeting at 6:14 p.m.

RECESS

Friday, July 27, 2018

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

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

Members Absent:
Sharon Levine, M.D.

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

Members of the Audience:
Megan Allred, California Medical Association
Eric Andrist
Gloria Castro, Senior Assistant Attorney General, Health Quality Enforcement Section, Attorney General's Office
Maximiliano Cuevas, M.D., Clinica de Salud del Valle de Salinas
Zennie Coughlin, Kaiser Permanente
Dennie Couthlin
Julie D'Angelo Fellmeth, Center for Public Interest Law
Virginia Farrugia
Rosa Fernandez, San Benito Health Foundation

Louis Galiano, Videographer, Department of Consumer Affairs
Marian Hollingsworth, Patient Safety Advocacy Network
Todd Iriyama, Supervising Investigator, Health Quality Investigation Unit, Department of Consumer Affairs
Susan Lauren
Patrick Le, Assistant Deputy Director, Board and Bureau Services, Department of Consumer Affairs
Mark Loomis, Area Commander, Health Quality Investigation Unit, Department of Consumer Affairs
Raymond Meister, M.D., Executive Director, Division of Workers' Compensation
Michelle Monseratt-Ramos, Consumer Union Safe Patient Project
Steven Muni, Supervising Deputy Attorney General
Kathleen Nicholls, Deputy Chief, Health Quality Investigation Unit, Department of Consumer Affairs
James Nuovo, M.D., University of California, Davis
Hannah Rhee, M.D.
Mark Scarlett, Supervising Investigator, Health Quality Investigation Unit, Department of Consumer Affairs
Mark Servis, M.D., University of California, Davis
Arnoldo Torres, Torres Policy Consultants

Agenda Item 17 Call to Order/Roll Call/Establishment of a Quorum

Ms. Pines called the meeting of the Medical Board of California (Board) to order on July 27, 2018, at 9:05 a.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 18 Public Comments on Items not on the Agenda

Dr. Rhee, a member of a grassroots movement and a nonprofit organization, Global Health for Peace, explained the mission statement of the organization. She discussed a project called black patients matter and offered to speak before the Board to explain more about this matter. She also offered that Global Health for Peace could share insightful, productive feedback to the Board. She concluded by informing the Board that her organization is auditing Board cases to look at civil rights violations.

Ms. Lauren provided information about liposuction procedures. She pointed out that there are unscrupulous physicians, and state regulators that do not crack down, and as a result it is a recipe for natural national disaster. She identified that the American Society of Anesthesiologists opined that California's liposuction regulations do not prevent patient deaths. Ms. Lauren expressed her concerns over the high death rates, how it causes other long-term harm, how many people are coerced, and strong advertising of false imagery. She specified that in the interest of public safety, liposuction and body sculpting ads should be banned and California liposuction code be changed.

Mr. Andrist pointed out that in the meeting the previous day Dr. Krauss and Dr. Bholat went over their allotted speaking time for their campaign speeches. He also noted that neither Board Member was told to conclude.

Mr. Andrist questioned how Board Members hearing about sexual assault cases on the news is any different than a consumer talking about an open complaint before the Board. He provided an example of open sexual assault cases that have received media attention.

Mr. Andrist shared that the phone application is flawed, since it is based on BreEZe. He provided examples of doctors, what they have done, and noted that their disciplinary action is not listed on BreEZe, which it not upholding consumer protection. He reiterated his point from the prior day, that Ms. Nicholls shared that a main issue is caseload, which justifies his thought that legitimate cases are being wrongly closed. He added that there is a clear conflict of interest that the Board needs to reprimand doctors, yet the Board is financially supported by license fees from doctors.

Ms. Farrugia, a patient that experienced a medical error, shared her personal story about the poor treatment she received and intentional omission of information from her medical records. She noted her concern about the doctors who treated her and their understanding of women's public health. She expressed that there is a significant lack of knowledge about the care of trauma patients. She requested that this subject be an agenda item, so that patients can verify their medical records for accuracy. Ms. Farrugia explained that she never filed a complaint with the Board, since she did not trust the Board based upon other cases that she has heard.

Agenda Item 19 Discussion and Possible Action on Legislation/Regulations

Ms. Simoes detailed that Assembly Bill (AB) 2311, a bill that the Board is co-sponsoring with the University of California, Office of the President, was signed by the Governor and will become effective on January 1, 2019.

Ms. Simoes continued onto AB 18 and shared a brief history of the bill. She noted that the Board's role in this program is to provide oversight review of the implementation, however AB 1045 required that all of the funding necessary for the implementation of the program be secured from non-profit philanthropic entities, and that implementation of the program could not proceed unless appropriate funding was secured. She explained that only a small amount of funding has recently been secured, and for this reason, it has not yet been implemented.

Ms. Simoes detailed that this bill amends existing law to strike the six-month requirement for the orientation program, allowing the program to be any length as long as it meets the training requirements. She elaborated that interested parties believe six months is too long. She reminded the Board that this program allows physicians to come into California and practice without postgraduate training, which highlights the importance of the orientation program.

Dr. GnanaDev compared the six-month orientation program to that of a supervised internship and pointed out that doctors in the United States are expected to complete a minimum of three years of residency. He concluded that removing the six-month requirement is extremely

concerning for patient safety, especially for the patients they serve, which are typically in underrepresented minority areas.

Dr. Yip remarked that it is hard to define a successful orientation, since it depends on organization and training in different areas. He inquired if this would be considered a federally qualified clinic or classified as a non-profit entity.

Ms. Kirchmyer noted that there are clinics that do meet the requirements.

Ms. Simoes pointed out that they must be approved by the Board.

Dr. Hawkins echoed Dr. GnanaDev's concerns but noted that he would be reassured if the clinics offered a supervisory function, so that individuals that did not require six months of training were supervised.

Ms. Kirchmeyer clarified that the program does not currently require supervision. She pointed out that the law for the program passed several years ago and it allows individuals to complete a six-month orientation program while in Mexico. Upon completion of the program, they can apply for a license, get licensed, and come to California to work as any other physician. She specified that Dr. Hawkin's point is that if the six-month requirement is removed, is this enough education, and should supervision be stipulated due to the shorter training windows.

Dr. Yip asked about the specifics of where the orientation programs would be taught.

Ms. Kirchmeyer remarked that they are completed in Mexico and are distance learning programs.

Dr. Krauss questioned if an analysis of results of the program is available.

Ms. Kirchmeyer identified that even though the legislation passed in 2002, making it effective in 2003, there has not been funding for the program, since it needs to be donated by philanthropic entities, and therefore the program could never start. She added that recently funding has been secured to get the approvals for the program, and once the program is established, an evaluation process will ensue by a third-party entity.

Dr. Bholat expressed her concerns of a two-tiered system, especially since the Board just approved having a minimum of three years of postgraduate graduate residency training.

Ms. Pines asked if there is a minimum amount of orientation.

Ms. Kirchmeyer responded that currently it is six months, but there are thoughts that this could be condensed to less time.

Ms. Simoes laid out the options of stances that the Board can take.

Ms. Pines asked for a motion.

Dr. GnanaDev made a motion to oppose AB 18; s/Dr. Krauss.

Dr. GnanaDev detailed that since the law has passed, two more medical schools have opened in California, with a third opening in 2020. He added that there are more residences, and international graduates should feel encouraged to get into a residency program. Dr. GnanaDev reminded the Board that it just recently agreed to increase the residency requirement to three years for licensure and therefore it would be contradictory to allow these students to come to California to practice without the same amount of training.

Ms. Kirchmeyer commented these individuals are board certified in Mexico.

Dr. GnanaDev indicated that there are people who come from all over the world with training from their own country, but it does not alter the fact that they need to attend a postgraduate training program in the United States.

Ms. Fernandes, CEO of San Benito Health Foundation and a fellow of the American College of Healthcare Executives, urged the Board to support the bill. She noted that the curriculum content will not be changed. She pointed out that they are practicing and experienced clinicians in Mexico. Ms. Fernandes explained that it will serve as an exchange program to meet the needs of the underserved in the state of California.

Dr. Rhee vocalized her concerns and questioned if these physicians should undergo diversity training. She added that the Central Valley is blessed with ethnically diverse doctors and questioned if this bill is passed if other ethnicities will be marginalized in this area.

Motion carried unanimously (11-0-0).

Ms. Simoes presented AB 505, which allows an administrative law judge (ALJ) to extend the deadline for the exchange of expert witness reports upon a motion and based upon a showing of good cause. She noted that the bill specifies that the scheduling cannot exceed 100 calendar days cumulatively, nor can it take place less than 30 calendar days before the hearing date, or whichever comes first.

Ms. Simoes reminded the Board that in the Governor's signing message for the Board's sunset bill it was noted that expert witness reports regarding a doctor under investigation needed more attention. Specifically, the Governor directed his staff to work with the legislature to determine what changes were needed. She remarked that Board staff met with the Governor's staff and interested parties to provided technical assistance, and therefore Board staff suggested that the Board take a support position on this bill.

Dr. Lewis made a motion to support AB 505; s/Ms. Lawson.

Dr. Bholat questioned why the timelines would be extended by up to 100 days, since the idea is to decrease timelines.

Ms. Simoes elaborated that the Governor's Office made a commitment to address this matter in exchange for letting the Board's sunset bill pass. She added that there were concerns that in

the event of an emergency, ALJs do not have the flexibility to extend the deadline. In turn, this bill provides flexibility and puts reasonable limits.

Ms. Webb agreed with Ms. Simoes and highlighted that this was something that the Board was directed to do.

Ms. Kirchmeyer added this bill does not change the fact that an ALJ can already extend a hearing date, rather this bill puts that ability into law.

Ms. Castro pointed out that late disclosure of expert opinions and testimony contribute to the delay of cases. She added that ALJs have always had the right to change the hearing date upon a good cause showing. She continued that some respondents choose to delay their hearing date as long as possible. Ms. Castro suggested that this bill allows a doctor to stay in practice longer and would erode what is in place.

Ms. Webb specified that while the hearing dates can still be altered, the limitation stipulates that they get no more than 100 days, which is a little over three months to delay the expert exchange. She articulated that Board staff did their best to keep a reasonable timeframe while still meeting the directives from the Governor's Office.

Ms. Wright questioned if there is a delay, why this would cause the AG's Office to be prohibited from conducting discovery. She added that there should be no prohibition since civilly there are 15 days before hearing or trial to take the deposition.

Ms. Castro remarked that the AG's Office has no deposition rights. She stated that in the exchange of discovery the AG's Office provides everything. She concluded by explaining that the AG's Office receives the expert disclosure, which allows for a more meaningful recommendation to the client who needs to know the likelihood of success on the disciplinary guidelines.

Ms. Wright inquired if the bill is burdensome for the AG's Office.

Ms. Castro stated that it would not be burdensome. She highlighted her point that ALJs had made the proper decision to deny respondents who failed to comply with this rule.

Ms. Simoes reiterated that this bill clarifies the flexibility of the ALJs, which Board staff believes they already have, but also limits the timeframe for the extension.

Ms. Kirchmeyer provided some historical insight into this bill, citing that the original changes were in order to allow similarities in terms of what has to be done by the Board and the physician respondent. The language changed to expert report to require it to be produced 30 days before the first noticed hearing. She added that even though the Governor signed the bill, the signing message stipulated that this needed more work since there was controversy over it.

Ms. D'Angelo Felmeth, Center for Public Interest Law, provided some background information on this matter. She explained that prior to 2005, the Board required the experts to put opinions in writing, which became discoverable by the defense. She noted that in turn, the defense

counsel would instruct their expert witnesses not to put anything in writing, which lead to the ambush of the DAG at the hearing and as a result, there was no real reasonable prospects of settlement. She concluded that therefore, this law was drafted to require any party that wants to use an expert witness at a hearing to exchange that expert witness opinion 30 days in advance. Ms. D'Angelo Felmeth remarked that although it will give ALJ flexibility and is not completely catastrophic, it will extend the hearing timeframes and she vocalized her opposition.

Dr. GnanaDev questioned if all parties are set on the 100 days, or if it could be shortened.

Ms. Simoes noted that 100 days is a product of the negotiation.

Ms. Webb explained that the Board Members are the decision-makers. Board staff responded to a directive, and it is now before the Board to make a decision.

Ms. Simoes added that Board staff was very clear that technical assistance was provided, but that the Board had to make the final decision on the position of the bill.

Ms. Pines asked the Board Members if they would like to change the motion.

Dr. GnanaDev stated his support for the bill but questioned if a shorter timeline could be amended.

Ms. Webb responded that a shorter timeline could be offered, but it would need to be specified.

Ms. Lawon asked for clarification on how long it could be postponed based on current law.

Ms. Webb added that this was a tool to improve timelines and foster early exchange to assist with settlement possibilities.

Ms. Kirchmeyer noted that Board staff explained that language was not needed, since it was within the scope of the ALJ.

Ms. Lawon clarified that there is an emergency exception that would still extend the time beyond 100 days.

Ms. Kirchmeyer confirmed that was true.

Ms. Sutton-Wills commented that legislation provides a guideline for what is considered reasonable and if it does cause a burden to have the exchange occur 100 days after, this could be substantial. She detailed that this change seems onerous, and changes the definition of reasonable.

Ms. Kirchmeyer commented that although there was a motion on the table, there could be a friendly amendment and reiterated the stances that the Board could take.

Ms. Sutton-Wills proposed her support if amended position, but requested a discussion with Ms. Castro.

Ms. Kirchmeyer explained that the discussion could happen, but that a timeframe needed to be defined today. She commented that Ms. Castro said 30 days, but this timeline would not be supported.

Ms. Lawson reiterated the point that although a timeframe could be agreed upon, the ALJ has the authority to supersede the deadline.

Ms. Simoes echoed that Board staff did work hard on the language to negotiate the 100-day limit.

Ms. Lawson offered that the Board take a neutral position. She reminded Board Members that the Governor directed the Board to take a look at this and Board staff has provided guidance. She continued that if a consensus could not be met in terms of a timeframe, the options would be to oppose or be neutral.

Ms. Simoes explained that she would rather the Board not oppose the bill.

Ms. Sutton-Wills said she was in favor of a support if amended position, but that the measure of reasonableness being 100 days was a problem.

Ms. Kirchmeyer recommended 60 days and provided her reasoning.

Ms. Simoes clarified that it is not an automatic extension.

Mr. Warmoth requested a friendly amendment and Dr. Lewis agreed to change his motion to support AB 505 if amended with a 60 day time limit extension; s/Ms. Lawson. Motion carried (10-1-0, Hawkins).

Ms. Simoes explained that AB 608 specifies the technical supportive services that a medical assistant can perform, including drawing up a local anesthetic if specifications are met when a supervising licensed physician, podiatrist, physician assistant, or nurse practitioner is present. She noted that the bill includes an urgency clause meaning the bill would take effect immediately upon signature. She elaborated that existing law does not have the specification of drawing up a local anesthetic, however the law does prohibit a medical assistant from administering the local anesthetic. Ms. Simoes remarked that this has been a gray area. Board staff agreed that this area of the law needs clarification and recommended Board Members take a neutral position.

Dr. Krauss suggested support if amended and changing the wording to “if the supervisor physically observes.” He provided more reasoning for his amendment, stating that there have been cases where the wrong solution has been injected. He added that if the wrong material is drawn up, there is great risk of harm. He elaborated that he can imagine a circumstance that requires supervision on the premises, but where the medical assistant is not physically observed.

Ms. Simoes asked for more clarification on the exact wording that Dr. Krauss was requesting.

Dr. Krauss pointed out that in paragraph three, lines 26 to 27 should read “who shall physically observe the performance of this procedure.”

Ms. Webb drew attention to page seven, line 20, which is the section of the law that is being altered. She suggested that if changes were to be made, they should be made in reference to that part of the law.

Dr. Krauss noted that the current language does not mandate that the supervisor observe the medical assistant.

Ms. Simoes shared that the scenario Dr. Krauss presented is a part of the gray area that is currently a struggle.

Dr. Lewis noted that in reading the analysis section, those points are made.

Dr. Krauss stated that the action of taking the vial of medication and drawing it up has to be physically observed by a licensed person. He reiterated his points about how physically present differs from physically observe.

Dr. Yip echoed the concerns of Dr. Krauss and commented that mistakes can happen and therefore this would be a good protection.

Ms. Kirchmeyer confirmed the wording and the place in the law that the amendment would cover.

Dr. Lewis made a motion to support AB 608 if amended to include “who shall physically observe”; s/Dr. Krauss. Motion carried (10-0-1, Sutton-Wills).

Ms. Simoes detailed AB 1751, which allows for information-sharing between CURES and other states’ prescription drug monitoring programs. She shared that the Board had taken a support position with previous versions of this bill and since the last Board meeting, there have been amendments. Specifically, DOJ would be required to adopt regulations by July 1, 2020, regarding the access and use of information within CURES, to consult with stakeholders representing law enforcement agencies, licensed prescribers, and dispenser communities. Ms. Simoes shared that Board staff is not concerned with this amendment as it is something that is needed and should have already been done.

Ms. Simoes continued that the second change allows healthcare practitioners, eligible for access to CURES or pharmacists, employed by a health insurer or a healthcare services plan and are involved in accepting, denying, or adjusting a claim for health insurance policy benefits or healthcare service plan contract benefits related to controlled substances, to access CURES for purposes of reviewing a claim. She noted that many stakeholders oppose this change, and Board staff has concerns with practitioners checking CURES for non-prescribing purposes such as to grant or deny payment.

Dr. GnanaDev explained that it is a serious concern since it should only be for prescribers not insurance companies.

Ms. Simoes acknowledged the concerns and laid out the options that the Board Members could take in regard to this bill.

Dr. Bholat echoed the concerns of Dr. GnanaDev and inquired if the Pharmacy Benefit Manager (PBM) group would have access to CURES.

Ms. Simoes provided some background into the second part of the amendment of the bill. She confirmed that she had heard concerns about PBM usage, but also added the concern over other healthcare practitioners utilizing CURES for treatment decisions, or denying certain medications based on CURES.

Dr. GnanaDev made a motion to support AB 1751 if amended to remove the ability for the health plans and insurers to access CURES; s/Ms. Pines. Motion carried unanimously (11-0-0).

Ms. Simoes introduced AB 1998, which requires by July 1, 2019, every healthcare practitioner who prescribes, orders, administers, or furnishes opioids to establish or adopt safe opioid prescribing policy. She explained that the Board previously had a neutral position on the bill, however it was amended since the last Board meeting. She noted that the changes include the specification that a health care practitioner or group of practitioners is deemed to have satisfied the requirements by adopting a nationally or professionally recognized guideline or a guideline established by a state licensing board that was updated after January 1, 2015. Additionally, it requires every policy to include a requirement that a prescriber offer a prescription for naloxone and requires that the California Department of Public Health (CDPH) submit a report to the legislature and publish the report using data from CURES, detailing the progress of the trend for opioid prescriptions by July 1, 2024.

Ms. Simoes explained that the section that requires the use of guidelines by a state board after January 1, 2015, was aimed at the Board's guidelines since they were established in 2014. She detailed the process of updating the guidelines and noted that ultimately feedback needs to be given to provide direction as to what needs to be updated. For this reason, Board staff recommends a neutral if amended position, since the Board would like physicians to utilize the Board's guidelines despite their publication in 2014.

Dr. GnanaDev pointed out that Dr. Bishop, a former Member of the Board, did an extensive amount of work to come up with the guidelines. He added that comments have been made that the Board's guidelines are better than the Centers for Disease Control's (CDC) guidelines. He commented that he thought that neutral if amended was a good position to take.

Ms. Kirchmeyer detailed the reasoning behind the recommendation, which primarily stems from the fact that there is not a large impact on the Board.

Ms. Lawson made a motion to take a neutral if amended position on AB 1998 if amended to change the guideline publication year to 2014; s/Dr. GnanaDev. Motion carried unanimously (11-0-0).

Ms. Simoes discussed AB 2138, which limits the current discretion given to boards, bureaus, and committees within DCA to apply criminal conviction history for a license denial. Additionally, the bill prohibits regulatory boards from requiring an applicant to self-disclose criminal history information and it would require boards to collect and publish demographic data regarding applicants who were denied licensure. She noted that previously the Board had strongly opposed this bill, since it limited the authority of the Board to deny licenses based on criminal convictions and to take enforcement actions based on criminal convictions. She stated the bill was amended and in doing so, many of the Board's concerns were addressed, however it continues to limit the Board's discretion to deny a license based on criminal convictions. Ms. Simoes listed concerns with the bill and recommended that Board Members take an oppose unless amended position.

Ms. Lawson made a motion to oppose AB 2138 unless amended to allow the Board to consider the acts underlying the conviction for dismissed or expunged convictions, require an applicant to disclose criminal conviction information on the application, allow the Board to automatically deny an application if the individual is a registered sex offender, and allow the Board to include criminal convictions for crimes that have been dismissed or expunged as a reason to deny a license; s/Ms. Wright. Motion carried (10-1-0, Sutton-Wills).

Ms. Simoes explained AB 2193, which requires a licensed healthcare practitioner who provides prenatal or postpartum care for a patient to ensure that the mother is offered screening or is appropriately screened for maternal, mental health conditions by July 1, 2019. She added that the bill requires health insurers and healthcare service plans to develop maternal, mental health clinical case management programs. She reminded the Board that they had previously opposed the bill, but after amendments there are no legislative mandates that the Board had opposed. Ms. Simoes pointed out that with the updates, Board staff now recommended a neutral position.

Dr. Lewis made a motion to take a neutral position on AB 2193; s/Dr. Bholat.

Dr. Rhee encouraged the Board to consider the ramifications of remaining neutral on this issue and explained her reasoning. She added that by supporting the bill it would be important in recognizing minority health.

Motion carried unanimously (11-0-0).

Ms. Simoes elaborated on AB 2487, which involves continuing medical education (CME) and buprenorphine. She explained that the bill has significant amendments and allows physicians the option of taking the currently required one time, 12-hour CME course on pain management, or a one-time, 12-hour CME course on the treatment and management of opiate dependent patients, which includes 8 hours of training in buprenorphine treatment for opioid use disorders. She explained that Board staff recommends a neutral position on the bill.

Ms. Lawson made a motion to take a neutral position on AB 2487; s/Dr. Lewis. Motion carried unanimously (11-0-0).

Ms. Simoes detailed AB 2789, which requires all prescriptions issued by licensed prescribers on or after January 1, 2022, to be issued as e-prescriptions. She noted that previously the Board supported requiring e-prescriptions, but there were concerns over some prescribers in rural areas not having access to the technology needed, and therefore the Board took a support if amended position. She explained that recent amendments would delay the implementation to 2022 and provided the Board with the options for the bill. Ms. Simoes shared that the Board is the only board that has taken issue with the rural area.

Dr. Lewis expressed concerns causing the rural area physician undue hardship. He added that it would require a considerable amount of electronic equipment that would be costly to purchase.

Dr. Krauss noted that a patient can refuse an e-prescription and request a written prescription. He inquired if this ability would be blocked by the bill.

Ms. Lawson suggested that the exemption section of the bills addressed this issue.

Dr. Krauss agreed.

Dr. GnanaDev vocalized that although he understands the burden that this could place on rural doctors, e-prescribing cuts down on errors and makes a significant difference in medication related adverse reactions.

Dr. GnanaDev made a motion to support AB 2789; s/Dr. Bholat. Motion carried unanimously (11-0-0).

Ms. Simoes introduced SB 944, which creates the Community Paramedicine Act of 2018, which authorizes local emergency medical services agencies to elect to develop a community paramedicine program in order to provide specified community paramedicine services until January 1, 2025. She explained that previously the Board had taken an oppose position, but since that time, many amendments have been made to add more layers of oversight with the addition of a sunset date. She provided more detailed information into the oversight.

Dr. Krauss shared that he was in opposition to paramedicine in the first form, and that he has been convinced that under these circumstances it is a safe program.

Dr. Krauss made a motion to take a neutral position on SB 944; s/Dr. Lewis.

Dr. Bholat vocalized her concern regarding discharge for very ill patients. She noted that a contemporary issue in hospital system is looking at reducing its 30-day unplanned readmission rates.

Dr. GnanaDev echoed that he too has concerns with the bill and thinks that a neutral position would be appropriate.

Dr. Rhee voiced her support for the bill as a member of the American Academy of Home Care Medicine. She identified inner cities that would be beneficiaries of the bill.

Motion carried unanimously (11-0-0).

Ms. Simoes explained SB 1238, which requires health care providers and group practices to notify their patients using the patient's last known contact information before the patient's medical records can be destroyed. She reminded the Board that at the last Board meeting the Board took a support in concept position, however concerns of the Board related to holding physicians liable for patient records not in their control. She shared that amendments to the bill had taken these concerns into consideration. Ms. Simoes recommended that the Board take a support if amended position and change the current exemptions afforded to facilities licensed by CDPH and identify the oversight over group practices and clinics not licensed by CDPH.

Ms. Sutton-Wills made a motion to support SB 1238 if amended; s/Dr. Lewis.

Dr. GnanaDev remarked that the real concern is who is going to be in charge and it should fall under the organization umbrella that manages the area.

Dr. Krauss echoed that this bill is an unfunded mandate that increases the cost of delivery of healthcare and is more burdensome to solo and small group practitioners. He added that if the intent is to establish a right of access then it should be applied uniformly to all healthcare records.

Dr. Lewis discussed the intricacies of the bill that would be burdensome and costly for solo practitioners, such as change of address and ensuring records are delivered.

Dr. Bholat questioned if the retention rate of records varies by age.

Ms. Simoes noted that although this has been discussed, there is not an amendment for that.

Dr. Bholat agreed that it should not be a two-tier system.

Dr. Yip acknowledged the good intent of the bill; he encouraged the use of the opt-in form and pointed out how healthcare records are changing in light of technology.

Motion carried unanimously (11-0-0).

Ms. Simoes introduced SB 1448, and reminded the Board that at the last meeting, the Board took a support if amended position. She discussed what the Board had previously asked for in the amendment and reported that the categories are very similar, but not exactly the same and provided examples.

Ms. Webb clarified that notice is given for a stipulation and an accusation charging these items and will include the patient notification requirement.

Ms. Simoes added that this is the closest all parties have been to agreement. She added that the only item that is outstanding is the debate over felony conviction. Additionally, she noted that not all licensees will be held to the requirement, rather it is only those listed in the bill.

Dr. Krauss explained that his only objections to patient notification has been a fear of not being able to serve the public adequately. He added that if respondents are refusing to agree to stipulation and if every case is taken to hearing, the Board will not be able to adequately evaluate every case and great harm may be done. He asked about boards in other states and how they deal with patient notification.

Ms. Kirchmeyer noted that she does not believe other states require patient notification.

Dr. Krauss stated that California will be the first experiment.

Dr. Hawkins requested more information about notification.

Ms. Simoes shared that it requires a licensee on probation pursuant to a probationary order made on or after July 1, 2019, before a patient's first visit following the probationary order, to provide the patient or the patient's guardian or health care surrogate with a separate disclosure.

Dr. GnanaDev acknowledged the amount of work that had been done on this bill. He addressed his concerns that a lot of healthcare providers are not included in the bill.

Dr. Yip asked for clarification on what a direct treatment relationship means.

Ms. Simoes explained the meaning of the terms through a few examples. She added that exemptions were provided to address concerns.

Ms. Sutton-Wills made a motion to support SB 1448; s/Dr. Lewis.

Ms. Allred, CMA, acknowledged that this is the closest that the bill has come. She noted some areas of concern, first, felony convictions, which CMA has provided language on, second, sexual misconduct, which CMA also offered amendments acknowledging the workload that will be placed on the Board. She concluded by asking for the support of the Board.

Ms. D'Angelo Felmeth, Center for Public Interest Law, vocalized her support for the bill. She added that as soon as all boards are brought into the bill, it will draw out the legislative process and this bill is at the closest that it has come.

Ms. Hollingsworth, Patient Safety Action Network, noted that the bill is very watered-down and provided examples of her reasoning. She urged the Board to include notification requirements to protect patients in cases where the doctor has multiple incidents that do include patient harm. She also shared that she took offense to the comment that SB 1448 is an experiment, since the issue of protecting the public should never be referred to in a frivolous manner.

Mr. Andrist inquired who the interested parties were, since patient safety advocates whose specialty have been sex offending doctors were not notified. He asked if CMA was invited to participate as an interested party. He added that a comment had been made sharing the concern that this bill would affect what doctors stipulate to, but seemingly there is no concern that the Board is bartering away egregious harm and death charges.

Motion carried unanimously (11-0-0).

Ms. Simoes stated that agenda item 19B provided the status of regulatory actions.

Agenda Item 23 Discussion and Possible Action on Approval of Mexico Pilot Program Orientation Program

Ms. Alameda explained that the Mexico pilot program was created to allow up to 30 licensed physicians specializing in family practice, internal medicine, pediatrics, and obstetrics and gynecology to practice medicine in California for a period of three years. She added that each physician selected for the program must complete a six-month orientation program on the California health care delivery system approved by the Board prior to leaving Mexico. She shared that the program was put into legislation in 2003, however it required funding by non-profit entities in order to implement and the Board has received only a partial payment for the program.

Ms. Alameda noted that the Board is required to approve the orientation program for this pilot program prior to the individuals taking this course. Board staff conducted the initial review of the program orientation course curriculum and requested Board licensing consultant, Dr. Servis review and provide the Board with his findings. She introduced Dr. Servis, elaborating that he is Vice Dean for medical education at the UC Davis School of Medicine with responsibility for all undergraduate, graduate, and continuing medical education, as well as a professor of clinical psychiatry and Vice Chair for education in the Department of Psychiatry and Behavioral Sciences.

Dr. Servis reiterated that the curriculum is intended to orient primary care physicians to healthcare delivery in California. He provided more detail of the review of the materials, noting the types of modules, and his concerns in the objectives in the initial material. He shared that he did provide feedback on the objectives, the self-assessment questions, and one section on community health center practice in the state that under addressed opioid prescribing. Additionally, there were a few mistakes in the initial presentations. Dr. Servis explained that he received back a comprehensively modified curriculum with significant modifications.

Dr. Bholat inquired what he meant by maintenance of certification.

Dr. Servis clarified that the modules were organized using a maintenance of certification format, although not necessarily with the same level of questioning. He provided more detail about some topics that were addressed in the orientation such as professionalism and ethics.

Dr. Lewis made a motion to approve the Mexico Pilot Program Orientation Program; s/Sutton-WIlls.

Dr. Cuevas, Chief Executive Officer of Clinica de Salud in Salinas, provided some background about himself. He explained that this program came into being in response to widespread need for more physicians, specifically in the San Joaquin Valley. He noted that a benefit of this program is that the physicians serve a population in a specific language and with specific cultural needs. Dr. Cuevas elaborated that the pilot is being set up as a study to verify if it will increase access and quality of care and provided more insight into how this would be done.

Mr. Torres shared that he wrote this legislation 17 years ago and he explained some of the difficulties in getting the program implemented. He specified the requirements for the program in order to be eligible, including testing, English, and externship requirements.

Dr. Rhee explained that diversity is more than just language, it is about understanding another culture. She expressed how vital it is that the training process for the physicians from Mexico include diversity. She added the importance of not marginalizing non-white people.

Motion carried unanimously (11-0-0).

Agenda Item 20 Discussion and Possible Action on the Recommendations from the Licensing Committee

Dr. Krauss shared that the Licensing Committee met on Thursday, July 26, 2018, and he discussed the program update that was given. He highlighted application review times, changes in license expirations, and the pilot project with the International Association of Medical Regulatory Authorities. He also provided the details of a presentation given, including the international licensure requirement changes and continuing medical education audits.

Dr. Hawkins inquired if there will be adequate residency training programs for the two new medical schools.

Dr. GnanaDev shared that residency programs are expanding, but not fast enough. He added that in looking at graduates in the United States, it seems as if there were not enough residency programs, but it was really due to graduates looking for programs beyond their reach. He added that there is currently substantial work going on behind the scenes to offer more programs.

Agenda Item 21 Discussion and Possible Action on Recommendation from the Special Faculty Permit Review Committee

Dr. Bholat shared that on June 14, 2018, the Special Faculty Permit Review Committee met via teleconference to discuss the applications of Dr. Rosa Bacchetta with Stanford University School of Medicine and Dr. Romain Pirracchio with University of California San Francisco (UCSF) School of Medicine and to discuss the appointment of Dr. Pirracchio to Division Chief at Zuckerberg San Francisco General Hospital and Trauma Center.

Dr. Bholat explained more about Dr. Bacchetta and her specialty in pediatrics, specifically in the area of genetic autoimmune diseases. She detailed that her clinical activities focus on cellular and gene therapies for treatment of devastating genetic, hematological, and autoimmune diseases. She provided additional information about Dr. Bacchetta's professional history and research work. Dr. Bholat elaborated that if approved by the Board, Dr. Bacchetta will hold a full-time faculty appointment as associate professor of pediatrics at Stanford. She concluded by noting that the Committee reviewed the application and qualifications and recommended that the Board approve Dr. Bacchetta.

Dr. GnanaDev made a motion to approve Dr. Bacchetta for the Special Faculty Permit appointment; s/ Ms. Lawson. Motion carried unanimously (11-0-0).

Dr. Bholat provided details about Dr. Pirracchio and his area of expertise in anesthesiology and critical care medicine, specifically in acute and critical care for trauma patients. She provided additional information about his professional history and awards he received. Dr. Bholat explained that if approved by the Board, Dr. Pirracchio will hold a full-time faculty appointment as professor of clinical anesthesia and perioperative care at UCSF School of Medicine and also serve as the Chief of the Department of Anesthesia and Perioperative Care at Zuckerberg San Francisco General Hospital and Trauma Center. She concluded by noting that the Committee reviewed the application and qualifications and recommended that the Board approve Dr. Pirracchio.

Dr. Lewis made a motion to approve Dr. Pirracchio for the Special Faculty Permit appointment and as the Chief of the Department of Anesthesia and Perioperative Care at Zuckerberg San Francisco General Hospital and Trauma Center; s/ Dr. GnanaDev.

Dr. GnanaDev noted that the Board would not have any authority over the appointment to Zuckerberg San Francisco General Hospital.

Ms. Webb clarified that the Board does have to approve the appointment to the position according to the law.

Motion carried unanimously (11-0-0).

Agenda Item 24 Discussion and Possible Action on Approval of St. George's University of London, International Bachelor of Medicine and Bachelor of Science Program

Ms. Alameda pointed out that Board staff conducted the initial review of St. George's University of London International program application and after staff review, the Board requested licensing medical consultant, Dr. Nuovo, to determine if the school met the requirements set in law and regulation. She noted that he has determined that the medical school curriculum meets the requirements for approval and noted that a site visit was not necessary, since the Board currently recognizes the University of London, St. George's Hospital Medical School.

Dr. Nuovo shared that the international program at St. George's Hospital is in substantial compliance with the appropriate statutes and regulations that meet the requirements for

recognition. He explained that the key issue in this review was that initially it was unclear that the program had sufficient resources for the training in the clinical years although after consultation with the school, it was made clear. There were concerns about the initial facility and therefore changes were made to use two facilities. He concluded that after review and discussion there is compliance and therefore he recommends recognition retroactive to the time that they began the training at these two institutions.

Dr. Lewis made a motion to approve St. George's University of London, International Bachelor of Medicine and Bachelor of Science Program; s/ Ms. Lawson.

Dr. GnanaDev asked if this was an established medical school in United Kingdom, with the addition of this program for the United States.

Ms. Alameda confirmed this.

Dr. Lewis inquired about the feedback received from students in terms of the expectation of their education.

Dr. Nuovo shared that in using Marshall University and Jefferson University it was clear that there were substantial changes for the institution, which provided the kind of training that the Board would expect for someone to engage in graduate medical education.

Motion carried unanimously (11-0-0).

Agenda Item 22 Presentation on the Division of Workers' Compensation System

Ms. Pines introduced Dr. Raymond Meister and provided some background about him. She noted that he is currently the Executive Medical Director of the Division of Workers' Compensation (DWC).

Dr. Meister provided an overview of worker's compensation claims in California, discussed the medical treatment utilization schedule (MTUS), and the adoption of the American College of Occupation and Environmental Medicine Guidelines. He gave an in depth look at the drug list in MTUS, with a structure of the MTUS formulary, statistics, and related rules. He highlighted opioids, opioid prescriptions for acute pain, and long-term opioid use following the treatment of acute pain. Lastly, Dr. Meister reported on qualified medical evaluators and their exams.

Dr. Krauss asked Dr. Meister to speak to fraud and abuse. He inquired about how Board received notices about fraudulent doctors.

Dr. Meister responded that they communicate if physicians get suspended and this has been of particular interest to DWC in recent years.

Dr. Bholat pointed out the importance of worker's compensation doctors using CURES and the communication between doctors since a worker's compensation doctor may prescribe substances that may react with the prescriptions of the general physician. She inquired about the challenges and the vision of DWC.

Dr. Meister spoke to the importance of understanding a person's medications, medical history, and not to focus solely on the work-related injury, since everything is interconnected. He noted the guidelines have been a positive addition to DWC and is something that will make the system work more smoothly.

Dr. Bholat added that the injured worker sees themselves in two separate systems. At times drug-to-drug interactions are not taken into consideration, although it is vital to take into account in order to protect consumers. She inquired who makes the determinations for the independent medical review (IMR).

Dr. Meister gave insight into the regulations surrounding IMR and the push to make decisions with the state. He noted that a tough point is matching the specialty and he referred to the DWC regulations. He invited the opportunity to talk and let the DWC know how communication or other areas can be approved.

Ms. Kirchmeyer reminded Board Members of the law that was passed two years ago that requires the DWC to notify the Medical Board of actions that they take. She added that this communication is something that will happen on a regular basis.

Dr. Yip inquired about the industry that has the most claims.

Dr. Meister noted that he would get back to him.

Ms. Webb clarified that the law does not require IMR physicians to be licensed in California.

Dr. Meister confirmed this information.

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

Mr. Le remarked that on June 25, 2018, DCA Director held his first Board Member and advisory committee leadership conference with over 30 participants on the telephone, including board presidents, vice presidents, chairs, and vice chairs. The meeting provided updates on AB 2138, a study on the executive officers' salary, and improvements to the regulatory review process.

Mr. Le detailed that on April 10, 2018, DCA held the first Licensing and Enforcement Workgroup meeting. He added that there were over 60 board and bureau staff that attended and feedback provided after the event proved that it was a productive first meeting that will help the department establish licensing and enforcement standards and best practices. He noted that this will help strengthen the boards and the workgroups continue to meet on a monthly basis.

Mr. Le notified the Board that in June, DCA hosted the Substance Abuse Coordination Committee. He added that SB 796 mandates that the Committee examine Uniform Standard #4, regarding the drug-testing standard for substance-abusing licensees in a diversion program or in a program that has adopted the Uniform Standards. The Committee is tasked with determining if the existing criteria needs to be updated based on recent developments in testing research and technology. He clarified that the Committee needs to report to the Legislature by January 1, 2019. At this meeting, the Committee took an in-depth look at drug testing, methodologies, research, and technological advancement. He added that some minor technical changes were adopted.

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

Mr. Le provided his last update, noting DCA's commitment to continuously improve the regulatory review process. He reported that since September 2016 there was a steady improvement in the number of disapproved files from the Office of Administrative Law. He added that in 2018 there has been zero disapprovals, however the department recognizes that at the same time the timeframes for review have increased, and in order to reduce review timelines without sacrificing quality the department is implementing a new system. He provided more information as to what this would entail.

Dr. GnanaDev noted the difficulty in getting the finance reports, income statement, cash flow and inquired why this has been so difficult.

Mr. Le remarked that the state has been moving to a new accounting system and noted that other state agencies have faced the same problem and he will follow up with the budget team.

Agenda Item 26 Items for April Board Meeting in the San Diego Area

Ms. Sutton-Wills requested a public presentation on MECSF.

Ms. D'Angelo Felmeth requested that the Board have the Vertical Enforcement presentation that was given at the Enforcement Committee Meeting in January.

Mr. Andrist requested a presentation on the Public Records Act.

Agenda Item 27 Adjournment

Ms. Pines adjourned the meeting at 12:54 p.m.

Denise Pines, President — Date: 10-16-18

Dr. Bholat, Secretary — Date: 10-16-18

Kimberly Kirchmeyer, Executive Director — Date: 10-16-18

The full meeting can be viewed at http://www.mbc.ca.gov/About_Us/Meetings/2018/