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

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

Westin San Diego
400 West Broadway
San Diego, CA 92101
November 7-8, 2019

MEETING MINUTES

Thursday, November 7, 2019

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
Susan F. Friedman
Dev GnanaDev, M.D.
Randy W. Hawkins, M.D.
Howard R. Krauss, M.D., Secretary
Kristina D. Lawson, J.D.
Ronald H. Lewis, M.D., Vice President
Laurie Rose Lubiano, J.D.
Asif Mahmood, M.D.
Richard E. Thorp, M.D.
David Warmoth
Eserick “TJ” Watkins
Felix C. Yip, M.D.

Staff Present:
Mary Kathryn Cruz Jones, Associate Governmental Program Analyst
Jenna Jones, Chief of Enforcement
Christine Lally, Deputy Director
Sheronnia Little, Information Technology Specialist I
Jane Montes, Staff Services Analyst
Regina Rao, Associate Governmental Program Analyst
Elizabeth Rojas, Staff Services Analyst
Jennifer Simoes, Chief of Legislation
Laura Sweet, Staff Services Manager III (Retired Annuitant)
Carlos Villatoro, Public Information Officer II
Kerrie Webb, Staff Counsel

Members of the Audience:
Mariam Ali, Midwestern University
Megan Allred, California Medical Association
Eric Andrist, Patient Safety League
Dunia Anwar, Midwestern University

Shalynn Arrington, Midwestern University
Eden Bates, L.M.
Quincey Bates, L.M., California Association of Licensed Midwives
Angel Benedict, Midwestern University
Laurel Bettinger
Claudia Breglia, L.M.
Cinnamon Buckley, California Association of Licensed Midwives
Kayti Buehler, L.M., California Association of Licensed Midwives
Katie Chicarelli
David Chriss, Chief, Department of Investigation, Department of Consumer Affairs
Ashley Christine
Shani Cooper, Licensed Acupuncturist
Zennie Coughlin, Kaiser Permanente
Rosanna Davis, L.M., California Association of Licensed Midwives
Sarah Davis, L.M., California Association of Licensed Midwives
Jennifer Dunleavy, Senior Vice President of Business and Operations, Accreditation Counsel for Continuing Medical Education
Arrianna Escobar, California Association of Licensed Midwives
Nicole T. Faye, Midwestern University
Jhoanna Galvez, L.M.
Nicholas Gannon, Midwestern University
Faith Gibson, L.M., California College of Midwives
Angelica Godinez, Sarah Davis for State Assembly 2020
Bridget Gramme, Center for Public Interest Law
Beverly Harrington
Nikki Helms, California Association of Licensed Midwives
Christina Hildebrand, A Voice for Choice Advocacy
Marian Hollingsworth, Patient Safety Action Network and Patient Safety League
Alicia Hubbell, L.M., California Association of Licensed Midwives
Kartik Jeshi, Midwestern University
Hadley Johnsonbaugh, Midwestern University
Haley Kaijala, L.M.
Stephanie Kral, California Association of Licensed Midwives
Dail Kim, Midwestern University
Patrick Kiernan, Midwestern University
Wendy Knecht
Jen Kamel, VBAC Facts
Taylor Konstan, Midwestern University
Tatiana Koontz, L.M., California Association of Licensed Midwives
Nicole Le, Chief, Office of Human Resources, Department of Consumer Affairs
Jonathan Lim, Midwestern University
Jasper Luslu, Midwestern University
Dorian Mains, California Association of Licensed Midwives
Amreen Masthan
Tonia McCracken, L.M., California Association of Licensed Midwives
Natalie Merfalen
Tiffany Nava
Chloe Nevarez, Student Midwife, Celebration of Birth

Kathleen Nicholls, Deputy Chief, Health Quality Investigation Unit, Department of Consumer Affairs
Angela O'Hara, Student at University of San Diego Law
Colin Parker
Akash Patel, Midwestern University
Bansuri Patel, Student
Kalli Plummer, Midwestern University
Chris Pulford, Midwestern University
Celeste Rannisi, L.M., Celebration of Birth
Ceniza Reed, L.M.
Hanna Rhee, Black Patients Matter
Minet Rodriguez
Heather Rothwell
Shahnon Saeed, California Association of Licensed Midwives
Kunal Sampat, Midwestern University
Shayna Schon
Kristie Sepulveda-Burchit, Educate Advocate
Allison Serrao
Maral Shabak, L.M., California Association of Licensed Midwives
Madeleine Shernock, L.M., California Association of Licensed Midwives
Miriam Singer
Madeline Skillman, Student Midwife
Javiera Sobarzo, Student Midwife
Sneha Somasekas, Midwestern University
Gwen Snodgrass
Racha Tahani Lawler, L.M., California Association of Licensed Midwives
Shannon Thompson
Paula Tipton-Healy, L.M., California Association of Licensed Midwives
Dominic Toctocan, Midwestern University
Brendan Tran, Midwestern University
Arman Trivedi, Midwestern University
Emily Vin, Midwestern University
Saba C. Wade, doula
Ashley Wang, Midwestern University
Kevin Wang, Midwestern University
Maria Wellner, R.N.
Bret Winners, Midwestern University
Vivian Wright, Student Midwife, Nizhoni Institute
Tim Yanni, Midwestern University
Michael Zanolli, Vice Chair, Accreditation Counsel for Continuing Medical Education

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

Ms. Pines called the meeting of the Medical Board of California (Board) to order on November 7, 2019 at 1:20 p.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Presentation from the Department of Consumer Affairs Human Resources Office on the Executive Director Selection Process

Ms. Le, California Department of Consumer Affairs (DCA), presented information on the process for the recruitment and selection of the new Executive Director. She explained the position is a non-civil service, exempt position appointed by the Board and approved by the DCA Director. The duty statement and copy of the job announcement were provided to the Board Members prior to the meeting. Ms. Le informed the Board that the Board President could appoint a two member selection committee who will work closely with Ms. Le on the recruitment and selection of the Executive Director. Ms. Le explained the process for approval of the recruitment notice and the job posting on job websites and other locations. She also spoke about the interview and selection processes that DCA and the Board uses to select the new Executive Director.

Dr. Krauss asked for the typical timeline for the process.

Ms. Le responded that the minimum advertisement period for recruitment is 30 days, but that time can be extended if needed. Dr. Krauss followed up by asking if Ms. Le anticipated that this can be completed within a couple of months. Ms. Le answered yes, adding that it is dependent upon the candidate pool.

Dr. Lewis asked about the definition of non-civil service and Ms. Le confirmed that it meant the Executive Director serves at the Board's pleasure. Dr. Lewis also asked if it was possible to post the announcement on job sites outside of California. Ms. Le explained the various ways and locations to post and advertise the recruitment information. Dr. Lewis also asked about the interview questions. Ms. Le said she will provide a list of questions to use as a guide of preferred questions to ask, which are based on the Department of Fair Housing and Employment laws.

Mr. Watkins asked about the proposed duty statement and the weighted duties. Ms. Le stated the duty statement will be modified once the recruitment posting is approved.

Dr. GnanaDev commented on the selection process. Dr. GnanaDev also reminded the Board that all candidates would be asked the same questions.

Mr. Watkins commented that the duty statement is currently relevant to the Board and mentioned the weighted assignments must reflect that. Mr. Watkins provided an example of the fiscal management portion weighted at 10 percent and noted that this item would change in the near future. Mr. Watkins asked if this is a live document that can change if needed. Ms. Le said she conferred with the former Executive Director when writing the duty statement.

Ms. Rhee, Black Patients Matter, spoke of her multiple lawsuits pending against the Board and stressed the seriousness of them. She suggested being open to working with the Board and providing information on what her group would like to see in the next Executive Director.

Mr. Andrist, Patient Safety League, commented that the Board should move the closed session to the end of the meeting instead of keeping it at the beginning.

Dr. Lewis made a motion to approve the Executive Director Duty Statement as written by DCA; s/Dr. Krauss. Motion carried unanimously (13-0).

Ms. Le moved to the announcement for the Executive Director recruitment and requested the Board review it.

Ms. Le requested the Board review the statement of qualifications (SOQ) and asked the Board to decide on how many pages they prefer the SOQ to be.

Ms. Pines asked Ms. Le for her recommendation for a page count and Ms. Le recommended three pages.

Mr. Warmoth asked for clarification regarding the maximum page count for the SOQ. Ms. Le clarified that the SOQ should not exceed three pages.

Dr. Mahmood inquired on what happens if there is no page limit. Ms. Le responded that applicants would submit many more pages.

Ms. Friedman commented that applicants should be able to summarize their experience in one to two pages and suggested the SOQ be shorter. Ms. Le responded that there are a number of qualifications required and that the SOQ needs to cover all required qualifications.

Ms. Lubiano suggested the announcement indicate that the SOQ should be single-sided.

Ms. Pines asked Ms. Le if there were any additional recommendations regarding the recruitment announcement. Ms. Le asked if the Board wanted to see more than three letters of recommendation.

Mr. Watkins asked if there was a limit to the number of resume pages and Ms. Le said no.

Dr. Krauss made a motion to approve the Executive Director Recruitment Announcement; s/Dr. Lewis. Motion carried unanimously (13-0).

Ms. Le made a statement regarding the selection committee. Ms. Pines selected herself and Dr. Lewis to the committee. Ms. Pines asked for a motion to delegate the authority to the selection committee to approve the job as advertised and to be a part of the decision making process.

Dr. Hawkins made a motion to delegate the authority to the selection committee to approve the job as advertised and to be a part of the decision making process; s/ Dr. Thorp. Motion carried unanimously (13-0).

Agenda Item 3 Closed Session

The Board moved into closed session to discuss the selection of an Interim Executive Director pursuant to Government Code section 11126(a) (1). Closed session ended and the Board reconvened in open session.

Upon returning to open session, Ms. Pines reported that, in closed session, the Board voted to appoint Ms. Lally as Interim Executive Director to the Medical Board of California, effective upon the approval of the Director of the Department of Consumer Affairs and the Administration of the Oath of Office.

Agenda Item 4 Public Comments on Items not on the Agenda

Mr. Andrist commented on parking costs and commented on his email request to use the Board's projector and screen. He commented on the cost of the meeting location and his offer to assist with finding more affordable locations. Mr. Andrist commented on a conversation with Board staff regarding Public Records Act requests.

Ms. Hollingsworth commented on the accessibility of the Board meetings. She suggested changing the meeting times in the evenings so more people can attend. She also suggested at least one day of the quarterly board meeting in the evening or on a Saturday.

Ms. Rhee commented on a recently published study regarding two groups of patients (one African-American and the other white) and the results showed more money spent on the care for white patients. She asked the Board why it hasn't allowed an advocate like her to speak on this topic.

Ms. Gramme commented that the Center for Public Interest Law (CPIL) at the University of San Diego Law School plans to sponsor a bill in the upcoming legislative year that requires physicians to disclose to their patients and identify if they are receiving payments from drug and device companies. Ms. Gramme asked for the Board's support when they introduce the legislation and also asked that the Board add the topic to the agenda of a future Board meeting.

Ms. Knecht asked that the Board support the legislation that Ms. Gramme spoke about. Ms. Knecht explained the proposed law is not intended to discourage a doctor's involvement in drug and/or device trials and research but to allow the patient to have fully informed consent.

Mr. Parker commented on the circumstances of his wife's case. Ms. Lally commented that the Board's Chief of Enforcement, Ms. Jones, was present and offered to have her speak with him outside. Mr. Parker said he has already filed a complaint and has been ignored. Ms Jones and Mr. Parker stepped out of the Board meeting to talk about his complaint.

Ms. Snodgrass discussed her son's adverse reactions to vaccines he received. At the end of her time, Ms. Snodgrass asked who she could follow up with. Ms. Lally responded that there is staff in the audience she can speak with.

Ms. Serrao asked for consideration on pending legislation including vaccinations and how the Board plans to address and fix the ever growing number of injuries caused by vaccines that continue to be ignored and how the Board plans to hold the doctors accountable for not reporting or treating patients accurately, leading to thousands of people, from newborns to the elderly, without proper healthcare because a doctor failed to recognize an adverse reaction or contraindication.

Ms. Lauren reminded the Board of her closed case and her issues with Dr. Berger. Ms. Lauren indicated that Dr. Berger did not provide informed consent prior to her procedures, which in turn, resulted in her disabilities. Ms. Lauren recapped her attempt to file a complaint and the difficulties in doing so.

Ms. Sepulveda-Burchit mentioned her previous request for an item to be included on the meeting agenda, which was not approved. She then again requested the item, training for physicians and reporting annually, be added to the next agenda. She also requested to add an additional agenda item regarding paid training for physicians writing medical exemptions and billing medical insurance carriers for those exemptions.

Ms. Hildebrand commented on the Board's investigations of physicians who write medical exemptions beyond the normal complaint process. She explained the difference in who files the complaints and which complaints are followed up on. She asked the Board to look at the investigations that are being done and what those doctors are being witch hunted for because there shouldn't be 70 medical doctors that are being brought before the Medical Board for complaints for writing medical exemptions. She also asked for an investigation to be done on who is filing these reports and how better complaints can be filed.

Agenda Item 5 Approval of Minutes from the August 8–9, 2019 Quarterly Board Meeting

Dr. Lewis made a motion to approve the August 8-9, 2019 Board meeting minutes; s/ Dr. Krauss. Motion carried unanimously (13-0).

Agenda Item 6 President's Report, including notable accomplishments and priorities

Ms. Pines shared that she and Dr. Lewis had calls with the Board's executive staff to discuss the meeting agenda and other Board projects. She announced that the summer newsletter is posted online that contains information regarding a new program that pays off medical school loans for Medi-Cal providers, how a physician can use the Controlled Substance Utilization Review and Evaluation System (CURES) to run reports if their prescription pad has been stolen, and the best ways for patients to obtain copies of their medical records. She also reported that Board has released the fourth podcast, which details the Board's role in the legislative process and provides recommendations as to how consumers can be more involved in this process.

Ms. Pines mentioned the Board held two expert trainings. One in September in Southern California and another in October in Northern California. She announced the upcoming trainings in Sacramento and in Loma Linda.

Finally, Ms. Pines shared that in recent months, the Statewide Opioid Safety Workgroup sent out alerts about responding to fentanyl overdoses and advising physicians not to drop their patients that are on high doses of opiates.

Ms. Hildebrand asked how consumers can get items added to the agenda, and pointed out that her group and others have requested agenda items in the past, both by email and in public comment. Ms. Webb informed Ms. Hildebrand she can request agenda items during the close of Friday's Board meeting, which is one of the last items on the agenda. Ms. Webb explained how agenda items are set.

Agenda Item 7 Board Member Communications with Interested Parties

Dr. Hawkins reported that the Board's 2018 Strategic Plan includes outreach. He explained this outreach includes medical students, postgraduates, and renewing licensees in terms of education, ethics, professionalism and the law in order to prevent violations. Dr. Hawkins said he had the opportunity last month to participate in a pre-medical student's career day at the Riverside University. In addition to talking about the role that physicians play in society, he reported that he talked about the Medical Board, what it does and the importance of really protecting your license by behaving ethically and professionally. Dr Hawkins explained most residents and pre-medical students haven't heard about this and that he took the opportunity to discuss the importance of protecting your license.

Dr. GnanaDev mentioned he meets with many people, but never talks about the Board, however, he does give talks to his medical school alumni association on medical ethics and professionalism. Dr. GnanaDev also announced he will be talking with hospital medical staff on ethics and professionalism.

Agenda Item 8 Executive Management Reports

Ms. Lally highlighted some items she wanted to bring to the Board's attention. She mentioned she has been working very closely and communicating regularly with Ms. Pines and Dr. Lewis.

Ms. Lally provided an update to the budget since the last meeting. She told the Board after the August Board Meeting, the Department of Consumer Affairs received actual expenditures and revenue figures that slightly improved the fund condition in the short-term. The Board currently has a 4.4 month's reserve at the end of FY 2018-19 and projected to be at 2.1 months reserve by the end of FY 2019-20. It is estimated the Board will be at negative, 0.7 month's reserve by the end of FY 2020-21. She stated the Board has a statutory provision that must maintain between a 2 and 4 month's reserve. Since the Board is projected to be below the 2.0 month reserve, the Board will need to pursue a fee increase to mitigate the structural imbalance for the long-term.

Ms. Lally explained the hiring of a vendor to perform a fee audit to determine the appropriate level for licensing fees in order for the Board to conduct its business. The audit is expected to be presented at the January 2020 meeting. Ms. Lally also explained that once the fee increase amounts are identified, the Board will need to seek legislation to increase the fees. She mentioned the last fee increase was in 2005.

Ms. Lally then provided an update from the Physician Assistant (PA) Board. She reported the PA Board conducted its final quarterly meeting of the year on November 4, 2019, in Sacramento. At this meeting, Jed Grant was elected President and Javier Martinez was elected Vice President for the coming year, and meeting dates and locations were also discussed with the first meeting of 2020 to be held on January 13, 2020, in Sacramento. Ms. Lally stated the PA Board's Education and Workforce Committee reported at the recent meeting that California currently has 16 physician assistant accredited programs and another five programs in development, which will provide the ability to educate 1,039 students. The PA Board is also preparing its sunset report, which is due to the Legislature by December 1, 2019.

Next, Ms. Lally provided an update to members regarding additional changes within DCA. Chief Deputy Director, Chris Schultz, was appointed by Governor Newsom, to serve as the Chief Deputy Commissioner at the California Department of Business Oversight. Additionally, DCA's Deputy Director, Christopher Castrillo, Deputy Director for Board and Bureau Services, announced he will be leaving the Department later this month.

Ms. Lally updated the Board on the required implicit bias training reminding Board Members that it must be completed by all Board staff by December 31, 2019.

Finally, Ms. Lally gave an update on staffing. She announced the hiring of the Board's Chief of Licensing, Marina O'Connor, who comes from the Bureau of Private Post-Secondary Education.

Dr. Hawkins asked about the invitation for a Board Member to sit on the PA Board as a non-voting member. He asked if it was a gubernatorial appointment. Ms. Lally confirmed it is a gubernatorial appointment and asked if he was still interested. Dr. Hawkins indicated he is interested.

Ms. Rhee applauded the implicit bias training and reminded the Board about the various lawsuits her group has in court. Ms. Rhee asked how the Board knows that the training worked. She discussed the ethnicities of medical experts who review Board cases. She is concerned about the Health Quality Investigations Unit (HQIU) use of the medical experts. She questioned their ability to be medical experts for the whole state. She spoke of a UC Berkeley study on racism against patients.

Ms. Allred commented on the fee audit saying California has the one of the highest licensing fees among state medical boards and among health professions within California. She commented that the high fees can be a barrier in attracting physicians to practice in California. She acknowledged there is a need for a fee increase.

Mr. Andrist reminded the Board that less than two-thirds of California's doctors are members of the CMA and of those doctors that do join, many are forced to join because of their local medical societies. Mr. Andrist also inquired about the former Chief of Licensing and questioned the staffing of the Board. Mr. Andrist also asked for a meeting with patient safety advocates. He discussed the proposed fee increase and asked how that money will be used. Finally, he discussed the per diem payments to Board members.

Ms. Rhee approached again and requested that Ms. Pines throw out anyone that isolates underrepresented minority Board Members.

Agenda Item 9 Presentation and Discussion on Continuing Medical Education Data Sharing

Ms. Pines introduced the presenters: Ms. Dunleavy is the Senior Vice President for Business and Operations at the Accreditation Counsel for Continuing Medical Education. Dr. Zanolli is the Vice Chair.

Dr. Zanolli gave a brief introduction to the Accreditation Council for Continuing Medical Education (ACCME) and provided the mission: to assure and advance quality learning for healthcare professionals that drives improvement and patient care. Dr. Zanolli provided statistics on the number of groups ACCME collaborates with to serve licensees and the Board. He mentioned the continued growth of continuing medical education and how programs are revised and updated on a routine basis. It's up to the ACCME to develop the criteria for the evaluation of the programs and the activities. Dr. Zanolli reported that 15 million credits have been reported.

He provided a vision for collaboration by providing a list of opportunities for the Continuing Medical Education (CME) data to be automated and reported electronically.

Ms. Dunleavy talked about the data systems that ACCME provides and introduced the Program and Activity Reporting System (PARS). She told the Board PARS is a system that has been in place for about the last 10 years. All of the 1,700 accredited providers referenced, use this system on an annual basis to report data about the CME activities that they produce. She mentioned an incremental change that was made about three years ago to allow providers to also start reporting data about the physicians that attend the CME activities that they're providing.

Ms. Dunleavy showed the Board screenshots of the webpage interface for the PARS system and provided a short explanation of each section of the interface.

Dr. Hawkins asked about approved CME sites and how CME sites are investigated if they are not on university campuses or other approved location. Ms. Dunleavy responded that ACCME has a complaints and inquiries process and receives questions about the CME settings. She explained how the ACCME accredits organizations and what the organizations have to do to prove they are meeting ACCME requirements.

Dr. Hawkins asked if the attendee could determine if the course is approved by the ACCME before paying. Dr. Zanolli confirmed this information. Ms. Dunleavy followed up by stating that the physician would only get credit for the time he or she was actively engaged in the education portion.

Dr. Lewis asked if the CME by a non-accredited organization cannot be entered into the database, then why take the CME.

Ms. Dunleavy further explained the process that the accredited providers that are offering the education are required to keep track of who attends and who completes the activity. The provider would keep track and report attendance and number of CMEs to the system.

Dr. Lewis asked if the PARS system was still in development or is it ready for use. Ms. Dunleavy explained it is in a pilot phase, because ACCME wants to test whether or not this would be something that physicians and the boards would actually use and find benefit from. She explained the program could be tailored to the needs of the Board. Dr. Zanolli added that licensees would need to participate and there would be adjustments made to the system once it was live.

Dr. Krauss inquired about the finance portion of the program, asking why the accreditation keeps getting more expensive.

Dr. Zanolli explained that they recently instituted a different tiering of the accreditation system for large populations doing CME as a business proposal. He added that the state accrediting system, including California, had zero to minimal increase.

Ms. Lubiano asked for clarification on how physicians are notified that they are behind on CME credits. Ms. Dunleavy responded saying the Board would send those notifications based on the information received from ACCME. Dr. Zanolli reiterated that ACCME has no authority over licensees.

Dr. GnanaDev asked how ACCME has accurate numbers. Ms. Dunleavy said reporting of data is not required and is provided as a service. She indicated the Board could require reporting through PARS. Dr. Zanolli added that if a hospital system is an accredited provider, they are responsible to report the data of who attended and how many hours and what the topic was.

Dr. GnanaDev asked if he wanted to review his CME hours, could he log into PARS and check. Dr. Zanolli responded that individuals cannot log into PARS.

Agenda Item 10 Approval of Recommendation for Federation of State Medical Boards Committees

Ms. Lally reported the Federation of State Medical Boards (FSMB) is seeking individuals to serve on its committees and Dr. Krauss has come forward, indicating he would like to serve on the Ethics and Professionalism Committee. She asked for a motion to approve the preparation of a letter of recommendation and support for the appointment of Dr. Krauss to the FSMB Ethics and Professional Committee.

Dr. Lewis made a motion to approve the preparation of a letter of recommendation and support for the appointment of Dr. Krauss to the FSMB Ethics and Professional Committee; s/ Dr. GnanaDev.

Dr. Krauss commented that the way the FSMB works is they acknowledge and appreciate those who volunteer for appointments, but sometimes some committees are more sought after than others. Therefore, Dr. Krauss asked if the letter could be modified to say, ‘or other committee appointment’.

Dr. Hawkins asked if someone has to pay to be a member and whether you have to pay for your travel and lodging when you go to these meetings. Dr. Krauss answered that any Medical Board Member can become a member of the FSMB at no cost, but the Board does not automatically reimburse a member for those expenses. There may be a line item where one non-physician member can have reimbursement. He also said the reimbursement would come from the state, not the FSMB.

Modified motion carried (12-0-1, Ms. Lawson abstained)

Agenda Item 11A Discussion and Possible Action on Legislation/Regulations

Ms. Simoes stated that the 2019 Legislative Session has ended and the Legislature does not reconvene until January 6, 2020. She added that the Governor has taken action on the bills that the Board has taken a position on, and that this is the first of a two-year session, meaning, if a bill did not pass this year, there is still one more year to make it through the Legislature to be signed into law.

Ms. Simoes introduced Assembly Bill (AB) 149, Cooper, which allows for a transition period, until January 1, 2021, before the new requirement becomes effective that requires prescription forms for controlled substances to include a uniquely serialized number. She explained that AB 149 has already been signed by the Governor, and the Board's implementation items, including updating the Board's website and emailing all physicians, was completed.

Ms. Simoes introduced AB 241, Kamlager-Dove, requiring continuing education courses for physicians, nurses and physician assistants to include the understanding of implicit bias. She explained the Board's implementation plan is to include a stand-alone article in the Board's newsletter, to update the Board's website and to notify associations that accredit CME of the bill's requirements.

Dr. Hawkins asked a question regarding CMEs and the individual physician.

Ms. Simoes explained AB 241 is a requirement on the CME providers, not on the individual, meaning the associations that accredit CME are responsible for making sure the requirements are met.

Dr. Hawkins requested the effective date of the bill.

Ms. Simoes replied that the AB 241 becomes effective January 1, 2022.

Dr. GnanaDev inquired about out-of-state providers and CME.

Ms. Simoes explained out-of-state providers accredited in California must meet the requirements.

Ms. Simoes moved on to AB 528, Low, which changes the timeframe to report dispensed prescriptions to CURES from seven days to the following working day and adds Schedule V drugs to CURES. She explained that the bill allows delegates to access information in CURES and allows a prescriber to check information obtained from CURES to meet existing mandates instead of requiring the prescriber to check the CURES database.

Ms. Simoes remarked the Board's implementation plan includes a stand-alone article in the Board's newsletter, updates to the Board's CURES webpage, documents and brochures, and an email to physicians notifying them of the changes.

Ms. Simoes introduced AB 714, Wood, which clarifies existing law that requires prescribers to offer a prescription for naloxone, and provide education to a patient to specify that the requirements only apply when an opioid or benzodiazepine is prescribed and expressly

exempts patients in inpatient facilities and hospice care. She stated that the Board's implementation plan is to include information on the Board's website and send an email regarding the bill to all physicians. Ms. Simoes explained the bill was signed by the Governor and in effect, and the implementation plan was complete.

Ms. Simoes introduced AB 845, Maienschein, which allows for an optional CME course in maternal mental health. She explained the Board's implementation plan is to include a stand-alone article in the Board's newsletter and to update the Board's website.

Ms. Simoes moved on to AB 1264, Petrie-Norris which clarifies that the requirement to provide an "appropriate prior examination" before prescribing, dispensing, or furnishing dangerous drugs does not require a synchronous interaction between a patient and the licensee and can be achieved through the use of telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care. She noted the Board will be updating its website as a part of the implementation plan.

Ms. Simoes introduced AB 1519, Low, which clarifies that oral and maxillofacial surgery residency programs accredited by the Commission on Dental Accreditation (CODA) count toward the 36 months of required Board-approved postgraduate training. This bill also specifies that all laws and regulations that apply to a health care provider also apply while providing telehealth services. She commented that the Board's implementation plan is to include a stand-alone article in the Board's newsletter and update the Board's webpage on postgraduate training changes.

Ms. Simoes continued on to Senate Bill (SB) 159, Wiener, that allows a pharmacist to furnish at least a 30-day supply, and up to a 60-day supply of pre-exposure prophylaxis (PrEP), if specified conditions are met. This bill allows a pharmacist to furnish a complete course of post-exposure prophylaxis (PEP), if specified conditions are met, among other provisions. Ms. Simoes explained the Board's implementation plan is to consult with the Board of Pharmacy on required emergency regulations and training.

Dr. Hawkins asked if the Board supported SB 159.

Ms. Simoes replied that the Board had a support if amended position.

Dr. Hawkins then inquired about the letter.

Ms. Simoes responded that the Board submitted a letter to the Legislature, however, they did not accept the changes and the bill was signed into law.

Dr. Hawkins asked how the pharmacist is going to implement the checking of lab tests.

Ms. Simoes said the Pharmacy Board oversees pharmacists and verifies whether the pharmacist followed the provisions of the law, but the Board will work with the Pharmacy Board on regulations and training.

Ms. Simoes introduced SB 377, McGuire, which requires judicial council forms to be revised, by September 1, 2020, to include a request for authorization by the foster youth or the foster

youth's attorney to release the foster youth's medical information to the Board, in order to ascertain whether there is excessive prescribing of psychotropic medications that is inconsistent with the standard of care.

Ms. Simoes went on to explain the Board's implementation plan includes consulting with the Judicial Council regarding updating information on their forms. The Board will also participate in a working group convened by the California Department of Social Services (CDSS), considering various options for seeking authorization for release of medical information regarding psychotropic medication prescribed between January 1, 2017 and July 1, 2020. The Board will work with the Judicial Council and CDSS on the processes when the Board's expert identifies inappropriately prescribed psychotropic medication to foster youth. She explained that the Board has started on the implementation plan for SB 377.

Dr. GnanaDev inquired if due to SB 377, the Board is looking into not only doctors who inappropriately prescribe medication, but also that CDSS is providing appropriate services for foster parents requesting medication for their foster children.

Ms. Simoes responded that there was a Bureau of State Audits Report on this issue and the Board does not have the authorization to address CDSS cases.

Dr. GnanaDev asked if anything is being done regarding CDSS providing appropriate services for kids, whether or not doctors are being disciplined.

Ms. Simoes replied saying the BSA Audit report included recommendations that she believes CDSS is working on.

Ms. Simoes then introduced SB 425, Hill, which requires health facilities and entities that allow a licensed health care professional to provide care for patients, to report allegations of sexual abuse and sexual misconduct made by a patient in writing against a licensed health care practitioner to that practitioner's licensing board within 15 days, and imposes a fine for failure to report. This bill also amends existing law that requires the Board to provide a "comprehensive" summary to a licensee upon request, and now just requires the Board to provide a summary. This bill requires probationary license information to stay on the Board's website for a period of 10 years. This bill amends existing law regarding physician interviews to include in the definition of unprofessional conduct the failure of a licensee, in the absence of good cause, to attend and participate in an interview by the Board, current law requires the failure to be repeated.

Ms. Simoes explained the Board's implementation plan is to develop a budget change proposal allowing the Board to hire staff due to the increased work load, while working with DCA to create new enforcement codes in Breeze to track complaints. The Board will also update its website, notify physicians via email, work with California Department of Public Health (CDPH) to issue an all facilities letter to licensed facilities notifying them of the bill's requirements, and work with stakeholders to get information out to the public.

Ms. Friedman asked if the Board had email addresses for all 140,000 doctors in the state.

Ms. Simoes specified that she believes the Board has over 100,000 email addresses.

Ms. Friedman inquired if members of the public have access to the email addresses.

Ms. Simoes responded that the emails are confidential.

Ms. Simoes moved forward with SB 697, Caballero. This bill revises the Physician Assistant Practice Act (Act) to allow multiple physicians and surgeons to supervise a PA, replaces the delegation of services agreement (DSA) with a practice agreement, eliminates the existing medical records review requirement, and makes other substantive and technical changes.

Ms. Simoes explained that SB 697 changes the way PAs are supervised to make them similar to nurse practitioners. She specified that the regulations fall on the PA Board, therefore the Board's only implementation plan is to update its website.

Dr. Hawkins asked if SB 697 changes the scope of practice or the requirement for physician supervision.

Ms. Simoes responded the bill changes the way PAs are supervised. She explained that instead of a delegation of service agreements between one particular PA and one particular physician, the bill makes it broader – similar to the way nurse practitioners have standardized protocols and procedures.

Ms. Simoes introduced SB 714, Pan, and SB 276, Pan. She clarified that SB 276 which was signed into law and supported by the Board, was very similar to SB 714. Ms. Simoes said at the end of session, the Governor requested amendments at the same time SB 276 passed the Legislature, therefore, the requested amendments were placed in SB 714. When SB 714 passed, its changes to existing law replaced the changes made in SB 276 because it was signed last. However, SB 714 is very similar to SB 276 and includes all the language that was in 276 and a few additional changes that were requested by the Governor.

Ms. Simoes stated SB 714 requires CDPH by January 1, 2021, to develop and make available for use by physicians, an electronic standardized and statewide medical exemption certificate form which must include an authorization to release medical records to CDPH, the Board and the Osteopathic Medical Board of California. It requires CDPH to annually review immunization reports from schools and institutions and requires clinically trained staff members at CDPH to review exemptions from schools or institutions with immunization rates of less than 95 percent and exemptions from physicians who submit five or more medical exemptions in a calendar year. This bill establishes an appeals process for medical exemptions that are denied or revoked among other provisions.

Ms. Simoes explained that the Board's implementation plan is to work with CDPH on the following; to release medical records for medical exemption complaints, to submit data, obtain information, to notify CDPH of accusations pending, to enter a memorandum of understanding with CDPH to ensure compliance, and to email all physicians information regarding the requirements of this bill.

Ms. Simoes elaborated that the Board has started on the implementation plan by meeting with CDPH discussing processes and a database to allow for information sharing.

Ms. Friedman inquired further about the status of the implementation plan.

Ms. Simoes responded that the Board has already met with CDPH, and CDPH is coordinating with their Information Technology Division for processes on information sharing.

Ms. Friedman asked if Ms. Simoes believes the information will be shared.

Ms. Simoes answered yes, that it has to be shared.

Dr. GnanaDev verified that by law, CDPH is required to give us the information.

Ms. Simoes responded that the Board is also obligated to give CDPH probation information and discipline information.

Ms. Simoes concluded her 2019 Legislative Implementation Plans with SB 786, Committee on Business, Professions and Economic Development, which includes technical and clarifying changes and it cleans up inconsistent language in the Business and Professions Code, 803.1, including changing physicians and surgeons to licensees. SB 786 deletes some outdated sections of the code because they're not active, or they're not needed any more. She explained the Board's only implementation plan for SB 786 is to include an article in the newsletter.

Ms. Hildebrand spoke about SB 714 and how she believes it will be detrimental to California physicians due to the fact that any physician that was disciplined by the Board will have their medical exemptions revoked, even when the disciplinary actions are unrelated to vaccinations. Ms. Hildebrand asked the Board to bring forward legislation in the upcoming year to change the statement to pertain to only vaccination disciplines, or remove it entirely.

Ms. Hildebrand also noted her concern with the Board giving jurisdiction on medical exemptions and disciplinary action to CDPH when a physician is deemed a public health risk. She requests the Board bring forward legislation to fix the issue.

In closing, Ms. Hildebrand asked the Board to look at the bill regarding physicians who are not allowed to write medical exemptions if an accusation has been brought against them regarding immunizations until the accusation has been resolved.

Ms. Chicarelli urged the Board to put legislation into place encouraging doctors to abide by the immunization standard of care, and report any medical events that occurs whether the doctor believes it's related to a vaccination or not.

A member of the public noted her concern that children who need vaccination exemptions are being refused because of SB 276, which states doctors can only give out a certain amount of exemptions before the Board will step in.

Ms. Thompson voiced her issues with SB 276 and SB 714 pertaining to the rejection of exemptions submitted by a physician currently on probation. She believes it convicts the physician without due process. She also commented that the implementation plan seemed

vague and compounded, and was interested in learning where the Board stands on previously issued exemptions under SB 277.

A member of the public asked for guidance from the Board regarding children who have had adverse reactions to a vaccine. She said doctors have warned her not to continue vaccinations, however, they will not issue a vaccine exemption enabling her child to attend a daycare.

A member of the public inquired about the discipline of doctors refusing to see children who have suffered severe reactions to vaccines. She elaborated that her child is unable to attend public school or daycare because of this bill, and that her children don't have adequate access to proper healthcare due to misdiagnoses. She expanded on the implementation plan, asking the Board to protect children in need of medical exemptions.

A member of the public spoke to the implementation plan of SB 714, asking doctors to educate themselves on vaccine reactions. She said she believes doctors are avoiding the fact that vaccines are injuring people every day because they are uninformed about vaccines and the risks they pose.

Agenda Item 11B 2020 Legislative Proposals

Ms. Simoes introduced the first proposal related to midwifery giving background on the subject explaining in January 2014, AB 1308 eliminated the requirement for physician supervision and authorized a licensed midwife to attend cases of normal birth as specified. The bill also authorized licensed midwifes to directly obtain supplies and devices, obtain and administer drugs and diagnostic tests, order testing and receive reports that are necessary to the practice of midwifery.

She noted the bill required the Board to develop regulations to define pre-existing maternal disease or conditions likely to affect the pregnancy and significant disease arising from the pregnancy under Business and Professions Code section 2507.

Ms. Simoes shared that the Board developed a taskforce made up of physicians, representatives from the California Association of Midwives, the California Association of Licensed Midwives, and the American College of Obstetricians and Gynecologists who met with the Board to proceed with a rulemaking process. The taskforce held interested parties meetings to discuss the current status of regulations defining the pre-existing maternal disease or condition likely to affect the pregnancy and significant disease arising from the pregnancy.

She explained that most language was agreed upon by all parties in the taskforce with the exception of a few issues that remained. The first was allowing licensed midwives to attend home births for women with prior cesarean deliveries – vaginal birth after cesarean (VBAC). The second was requiring the physician to examine the client to make a determination that the risk factors presented by the client's disease or condition were not likely to significantly affect the course or pregnancy and childbirth as their determination causes liability issues. The third issue was with the term "likely," as the definition was not agreed upon by all parties.

Ms. Simoes continued that the parties agreed the issues could not be resolved through regulations, but that the Board approved some changes related to the determination included in this proposal at the April 2017 meeting. She explained the Board is a regulatory agency and if the law requires the Board to develop regulations, the Board needs to adhere to that law, therefore, the Board staff is proposing a statute change to resolve the issues previously mentioned.

Ms. Simoes remarked the statute change proposes prohibiting licensed midwives from attending home births if the mother had a prior cesarean delivery, changing the term "likely," and changing the language that requires a doctor to make a determination.

Dr. Lewis made a motion to approve the legislative proposal; s/Dr. GnanaDev.

Mr. Watkins requested clarification on the fact that licensed midwives were being excluded for the second birth when a woman had previously had a cesarean.

Ms. Simoes replied that the issue of contention was whether midwives should be allowed to attend a home birth if a woman previously had a cesarean. She said there's no middle ground that the Board can take on this issue, either they should be allowed to do it, or they should be prohibited.

Mr. Watkins continued inquiring on the downside of midwife participation in this environment, asked, what the positive outcome of removing them from this environment would be.

Ms. Simoes pointed out the low risk of keeping midwives in this environment, but noted if something happened during birth, it could be egregious if the mother is not near a hospital. She explained that midwives contend there is a very low percentage for risk. However, the American College of Obstetricians and Gynecologists (ACOG) and California Medical Association (CMA) made the argument that while it's a low percentage, when something happens, it can be very bad.

Ms. Webb commented that this issue needs legislative authority to move forward because it's a scope change and not best addressed through regulations. She expanded that part of the disagreement is that someone who has had a prior C-section falls out of that definition of "normal births," and the difficulty of working within that language to move forward with regulations. She noted that someone with a prior C-section may fall out of the definition for being a candidate for midwifery care due to the catastrophic event that can happen if there is a problem during labor following a C-section.

Dr. GnanaDev asked Ms. Simoes if this is something that could be done at a hospital as several hospitals have midwife privileges.

Ms. Simoes responded that those are certified nurse midwives, and that the Board is discussing licensed midwives under the Board's jurisdiction.

Dr. Thorp asked for clarification on whether the issue with licensed midwives is that there is no affiliated obstetrician overseeing the care, therefore there's no necessity for an obstetrician to help co-manage. Ms. Simoes agreed.

Dr. Thorp continued that the issue happens when there is a critical problem at home with a licensed midwife – opposed to a certified nurse midwife who has a relationship with the obstetrician if a problem arises. He inquired about the options when there is a problem during labor with a licensed midwife, whether the mother and child would go to the emergency room.

Ms. Webb remarked that while there may be midwives who have collaborative relationships with physicians, the concern is that there's not collaboration between physicians and midwives, perhaps due to the risk of liability. She explained this posed a problem for licensed midwives in the past who had to practice outside of the letter of the old law since physicians would not agree to supervise them. Therefore, the requirement for physician supervision has been removed from licensed midwives because it was not feasible.

Ms. Webb stated that when physician supervision was removed, the description of a proper candidate for care by a licensed midwife was set forth in statute, and the obligation for the Board to do further regulation was also set forth in the statute.

Mr. Warmoth inquired if the Midwifery Advisory Council had been asked for advice on the staff recommendations.

Ms. Simoes replied that they came to the Board first as is practice with legislative proposals, but that the next Midwifery Advisory Council meeting is in December.

Dr. Mahmood asked if there are risks for medical conditions outside of the risks previously mentioned, such as a diabetic mother or if the baby is going to be big.

Ms. Simoes said that as part of the regulatory process, they came up with the two mentioned – significant disease arising from pregnancy and pre-existing maternal disease or condition likely to affect the pregnancy. She continued that at the interested party meetings, a list was agreed on by all parties except for VBAC which was not agreed upon, creating an impasse.

Dr. Mahmood continued asking if there was direction regarding geographical areas. Explaining that someone in San Diego and Los Angeles would need different care than someone residing in Kern County.

Ms. Simoes explained that the Board regulates for the whole State of California rather than geographical areas.

Mr. Watkins stated he believes this is an issue the Board should consider and look into. He concluded saying he wants to hear from the VBAC side of the issue regarding incident rates and would like to table the topic until more parties are involved in the discussion.

Ms. Simoes indicated it was up to the Board to table the topic or not, but she explained she will have to find an author for the bill, so the proposed legislation may have to be moved to next year's legislation.

Mr. Watkins responded he was okay with that because the Board needs to make the right decision for the public. He explained he's interested in having further discussion on VBAC's before making a decision.

Ms. Simoes agreed and responded that the Board held numerous interested parties meetings regarding the issue, but that the Board can hold more interested parties meetings if needed.

Dr. GnanaDev disagreed with tabling the discussion. He said it's time to make a decision, and that staff spent a lot of time trying to resolve the issue during many interested parties meetings. He said in some people's minds it has to do with scope of practice, to others it's about safety. He explained that it's the Board's job to come up with regulations since the law was passed.

Mr. Watkins replied that many of the Board Members were not present the first time around and are not comfortable making a decision without hearing data and real percentages on the incident rates. He explained that ultimately the decision is based on scientific data and that there is no issue in waiting a bit longer if it will give the people a voice.

Dr. Thorp stated that there is a place for the democratic process – to hear both sides of the argument. He said that while licensed midwives have some training, they are not trained in the traditional way that certified nurse midwives are trained. He continued that there's a reason why there's no physician supervision for these practitioners.

Dr. Thorp commented on the nature of the birthing process and how for thousands of years it was accomplished with little to no assistance. However, that's not the way it is preferred to optimize the health of every pregnancy. He continued that there are many birth situations where licensed midwives are capable of managing it, but that there are some where it may be a risk. He questioned how the Board should provide optimal care for the population by minimizing risk, elaborating that it's the Board's job to write those regulations.

Mr. Watkins questioned the risk Dr. Thorp spoke of saying it's been present since the beginning of birth, but that they do not have the current stats and information needed to make a sound decision without further information. He explained they wanted to make the best decision because it involves someone else choosing a midwife and not base their decision on an assumption of the statistics. Mr. Watkins elaborated that if their decision is not made on complete information – affecting a group of people that they're not a part of – it's outside of their scope. He opined that this is obviously an important process based on the amount of public members in the room and that it deserved due process.

Dr. Gnanadev added in that the stats he had from Mayo Clinic showed 60 to 80 percent of birth patients can be delivered normally and the remaining need intervention with one percent having uterine rupture. He added that he was previously unaware that only nurse midwives have hospital privileges and that his concern is with safety not the scope issues.

Ms. Simoes elaborated by informing Mr. Watkins that this issue was part of the debate. The risk is very low, but when something happens, it can be catastrophic.

Ms. Webb asked if the original motion needed to be amended.

Dr. Lewis said he would not accept an amendment to the original motion.

Ms. Pines commented that the Board would be voting on the original motion.

Ms. Allred began the public comment saying her organization supports the concept of the proposal and appreciate the willingness to fix the law providing greater patient protection.

Ms. Gibson stated the law and training for licensed midwives is identical to the nurse midwifery law. She added that the real issue is hospital VBAC bans and that almost half of all California hospitals do not allow VBACs and if midwives can't attend VBACs then there will be unattended births. She offered the Board statistics from the Licensed Midwifery Annual Report for 2018.

Ms. Kamel noted that the risk of maternal death is three times higher with a repeat cesarean than with a VBAC. She says that Dr. Elliott Main, the Medical Director of the California Maternal Quality Care Collaborative, stressed that the biggest risk of the first cesarean is a repeat cesarean. She spoke of the risk for women in rural areas losing birthing options and risking an unattended birth.

Ms. Rosanna Davis pointed out that licensed midwives do individual risk assessments. She added there are regulations in place to provide adequate informed consent, disclosure about midwife experience in VBAC, and patient agreement. Ms. Davis elaborated that she will continue to advocate for options rather than restrictions for community birth with community birth experts.

A member of the public stated that her first baby was a C-section and she had her second baby with the help of a midwife at home. She expressed that she has the ability to assess the risk and give informed consent. She concluded that the decision should be the mother's choice.

A member of the public stated that previously she had a C-section in the hospital and now recently had a safe and successful VBAC at home. She explained how she preferred the home birth and felt taken care of by the midwife. She added that taking away her right to a birth of her preference is an endangerment to her safety.

Ms. Shernock, a licensed midwife, explained the training programs of licensed midwives and elaborated that licensed midwives are specifically trained in doing VBACs at home. Ms. Shernock added that she is also a Medi-Cal provider and the only person offering VBAC in several California counties, mainly rural counties with poor or working class mothers and women of color. She specified that removing VBAC from the licensed midwives' scope would be endangering these groups of women.

Ms. Helms, a licensed midwife in San Diego County, said she believes that using state law to ban access to VBAC services by licensed midwives will have a severe impact on communities of color, forcing women to assume undue risks to their lives, health and bodily autonomy. She continued saying that this would undermine the state's long standing commitment to reproductive and racial justice.

Ms. Tipton-Healy, a licensed midwife for over 40 years, stated that in a year, 30 percent of her patients are VBAC patients and has never seen any fetal demise from VBACs. She added that if this law is passed, her scope of practice will be limited, that mothers and families will have minimized choices, and that women will be forced into repeat C-sections.

Ms. Galvez, a licensed midwife in Long Beach, California, expressed that she opposed the VBAC ban as it will disproportionally impact families of color and migrant families urging the Board to think strongly about opposing the ban.

Ms. Buehler, a licensed midwife from San Diego County, indicated that the rates of VBACs being done in hospitals in San Diego County is incredibly low. She added that the number of VBACs done in California is around 10 percent, and if the Board takes away another option for VBACs, it will limit the choices for Californians. Ms. Buehler remarked that VBAC bans have no basis in evidence and that they are in violation of the ACOG guidelines in the context of informed decision making.

Ms. Hubbell, a licensed midwife in Riverside County, stated she opposed this agenda item.

Ms. Buckley, a midwifery student, expressed that she opposed the ban for VBACs, as it causes a disturbance to mothers and their options.

Ms. Wade, founder of For the Village, a nonprofit in San Diego that provides doula services, Echoed that she opposed the VBAC ban, expressing that midwives have changed the lives of the families they serve, generally black women. She inquired why the Board is not looking into increasing access for women of color to licensed midwives as it can be a matter of life or death as shown in research and statistics.

Ms. Cooper, a licensed acupuncturist and doula in San Diego County, stated she is a proponent for evidence based medicine and science. She added that she had abdominal surgery, putting her into a VBAC category, however, her healthcare does not offer VBACs. Ms. Cooper stated that if given the option, she would choose a licensed midwife for her health and the health of her child.

Ms. Wright, a student midwife, stated that she opposed the proposal and pleaded with the Board to focus on patient autonomy and informed consent.

Ms. Sarah Davis, a licensed midwife in San Diego County, explained she's participated in many of the interested parties and stakeholder meetings regarding the bill. She stated she is opposed to banning VBAC for licensed midwives and believes the Board will have a challenging time finding an author for the bill. She added that she believes there is a middle ground as not all VBACs are the same and not every candidate is the same.

Ms. Mains, a student midwife, said she opposed the denial of services to mothers. She added that ACOG states most women are good candidates for VBAC that it is safer than a repeat cesarean, and that midwife led care translates to fewer obstetrical interventions. Ms. Mains explained the midwife VBAC ban limits birthing options for women.

Ms. Rannisi, a midwife in San Diego practicing home birth for over 30 years, expressed that she agreed that the discussion should be tabled until there is further information, especially from VBAC families. She stated she opposes the ban on VBACs and believes women and families should have the right to their own bodies and choose the birthing route they prefer after assessing the risks.

Ms. Bates, a licensed midwife from Riverside and San Bernardino County, shared that she is a mother of two cesareans and three VBACs with one at home. She stated in her area, no hospitals or physicians offer VBACs, forcing women to undergo a repeat cesarean or choose an unassisted birth. Ms. Bates claims this is a denial of services to mothers disguised as a restriction of practice.

Ms. Shabak, a licensed midwife practicing in San Diego County, voiced that it would be detrimental to our state and national health to limit the scope of licensed midwives when other industrialized nations are boosting and supporting midwives. She added that as a country, we would be damaging our status in the eyes of the world by making decisions based on gut and ego instead of statistics and science.

Ms. Koontz, a licensed midwife involved in birth work for the last 14 years, explained that midwives are the experts of normal physiological birth as they are trained to identify red flags, complications, risks, and to transfer appropriately. She commented that removing VBACs from the scope of licensed midwives is denial of care, forcing families into repeated abdominal surgeries which leads to long-term repercussions such as trauma, and post-partum mood disorders.

Ms. McCracken, a licensed midwife, echoed that she is concerned about the ban on VBACs which would limit a woman's right to choose her reproductive healthcare provider. She opined that the legislation would be a denial of services and that she believes it's a woman's choice to make the decision about their reproductive care. Ms. McCracken concluded that she does not want to see the licensed midwife's scope of practice restricted.

Ms. Escobar, a student midwife, voiced that she is opposed to the VBAC ban that it would be a denial of services to mothers and a disguised restriction of services.

Ms. Breglia, a licensed midwife and Director of the Nizhoni Institute of Midwifery – California's only accredited school for licensed midwives, detailed the training students receive regarding VBACs at home. She elaborated that the students trained in the risks incurred by previous vaginal surgeries and are taught ways to minimize those risks and know when to transport safely.

Ms. Bettinger stated she previously had a VBAC in a birth center with a licensed midwife and the bill would end her option to choose that. She stated that if the law passed, she would birth at home by herself before having another C-section.

Ms. Christine, who has had two C-sections, explained she suffered significant issues after being coerced into a second C-section. She indicated that she is disheartened to think of the Board taking away her choice of birth. Ms. Christine concluded that she was never given informed consent on the issues she would have from a C-section.

Ms. Simoes restated the legislative proposal is to ban VBACs at home attended by licensed midwives, to change the term “likely,” and to change the language that requires a doctor to make a determination that the risk factors presented are not likely to significantly affect the course of pregnancy and childbirth.

Mr. Watkins asked if he can table this proposal to get clarification so all that’s needed is a second.

Ms. Webb explained the Board’s process for voting when there has been a motion and a second on the table. She added that an amendment can be requested and agreed to or not.

Mr. Watkins inquired if he can ask for an amendment or if the proposal was going forward.

Ms. Pines remarked that they already requested an amendment which Dr. Lewis rejected, so now the proposal must be voted on.

Ms. Webb stated that if anyone wanted the proposal tabled, they would vote no on the motion.

Ms. Lawson asked if Ms. Simoes could refresh the Board on the proposal.

Ms. Simoes shared that a bill passed in 2013 and became effective in 2014 that required the Board to develop regulations to define pre-existing maternal disease or condition likely to affect the pregnancy and significant disease from the pregnancy. She continued that the Board held multiple interested parties meetings and came to an impasse, which was the reason for creating a taskforce to have the parties create language for the regulations agreed upon by both parties.

Ms. Lawson inquired that VBAC ban is the one remaining issue.

Ms. Simoes agreed.

Ms. Lawson asked if the purpose of the proposed legislation is to have the legislature resolve this for us.

Ms. Simoes agreed and added that while the legislation proposes three changes, the main issue is VBAC and that there was no middle ground that all parties could agree on. She stated that the Board waited six years in hopes that either side would run legislation to fix the issue, however, that hasn’t happened. She added that the Board is trying to resolve the three issues that are known in order to complete the regulations.

Ms. Lubiano asked if Ms. Simoes could outline what a yes vote would mean.

Ms. Simoes explained that a yes vote would mean moving forward with the legislative proposal to prohibit VBACs for home births, change the term “likely”, and to change the requirement that a doctor makes a determination to tell licensed midwives the risks to consider when deciding whether or not to take the client. She added in the prior taskforce meetings, the Board voted to go forward with legislation to address the “determination” language. Ms. Simoes continued that

if the Board votes to approve, language would be drafted, and she would find a legislator to author the bill. She said there's opportunity for public comment before making it to the Governor, who signs it into law.

Motion failed (2-11, Friedman, Hawkins, Krauss, Lawson, Lubiano, Mahmood, Thorp, Warmoth, Watkins, Yip, and Pines opposed).

Ms. Simoes moved forward to the next proposal, which is to amend Business and Professions Code section 2184 to change the validity of the United States Medical Licensing Examination (USMLE) from 10 years to seven years. She added that this was a recommendation that was made by the Federation of the State Medical Boards (FSMB).

Ms. Webb stated our statute says 10 years but the FSMB suggests it should be seven years for test scores to remain valid. She stated this was mainly to address people not in practice who are seeking a license but haven't passed the USMLE within the last seven years.

Ms. Simoes added that the FSMB says the seven year policy was adopted to ensure the USMLE is testing current medical knowledge and physicians taking the exam are up-to-date on their medical information.

Dr. GnanaDev asked if it affects people who are trying to get into residency multiple times.

Ms. Webb answered yes.

Dr. Thorp stated that the usual certification period for specialty boards is 10 years, it doesn't have anything to do with the way you practice or not, it's just the standard way in the United States. The proposal changes the validity of the USMLE from 10 years to seven years. He added that he doesn't see the point of decreasing the validity from 10 years to seven years.

Dr. Krauss inquired if this applies to circumstances other than somebody simply passing their Board exam and delaying licensure. He used the example of someone who passed their examination and is licensed in another state, but then applies to licensure in California – whether or not there would be requirements in terms of when they would have needed to take the USMLE.

Ms. Simoes responded saying it doesn't impact people licensed in other states.

Dr. Mahmood asked if it would only impact someone who has passed the examination but had not got their medical license.

Ms. Simoes replied they could be out of practice for a certain amount of time.

Dr. Mahmood inquired if legislation was needed for something that could be a very seldom occurrence.

Dr. GnanaDev agreed with Dr. Mahmood and asked the number of cases where this happens.

Ms. Simoes pointed out she did not have that information, but explained the Board did not have to go forward with the recommendation, that it was a recommendation of FSMB.

Dr. GnanaDev inquired if it's a regulation or law.

Ms. Simoes responded it has to be in statute because of the 10-year validity is in statute.

Dr. GnanaDev asked if Ms. Simoes could offer statistics on who the statute effects.

Ms. Simoes responded she can send the Board Members information from FSMB.

No motion made, proposal died.

Ms. Simoes moved on to the next proposal, Business and Professions Code section 2225, related to obtaining medical records for deceased patients. She stated the proposal requires the next of kin for deceased patients that have been contacted and located but have refused to consent to release the medical records to make the objection in writing in 30-days.

Ms. Simoes added that currently, if the next of kin has been contacted and located but does not specifically consent to releasing the medical records, the Board must obtain a court order to obtain the deceased patient's medical records.

Ms. Lawson inquired how the Board would notify the next of kin that their objection must be in writing.

Ms. Simoes indicated that the Board would put information on the law on the Board's website.

Ms. Webb added that it would be included in the letter that went out.

Ms. Simoes was asked if this was a response to obstacles in getting medical records from people who've died from opioid overdoses. She continued that it was the reason the law was written, however, it wasn't specific to opioid patients.

Dr. Krauss made a motion to support the amendment to Business and Professions Code section 2225; s/Dr. Lewis. Motion carried unanimously (13-0).

Ms. Simoes moved on to the next enforcement proposal related to pharmacy law that requires the pharmacy to make records available at all times when investigating for administrative actions. She explained that many times the investigators are investigating criminal actions, but this section of the law gives the licensee a reasonable time to produce or furnish records for criminal cases.

Dr. Krauss asked if a pharmacist is interrupted by an investigator, if the law is changed, will they have to stop serving their customers to look for records.

Ms. Simoes replied that pharmacists already have to meet the requirement for an administrative reason, but statute allows for extra time for a criminal reason. She added that they're trying to mirror the two sections of law.

Dr. Krauss responded asking if anything less than immediate would not be a reasonable time – that a statute that said within 24 hours would still impede the investigation.

Ms. Simoes replied that the plan is to eliminate the reasonable time language, but that a limit could be put on it.

Dr. GnanaDev asked if there is a time limit for administrative action.

Ms. Simoes replied there is not.

Dr. GnanaDev made a motion to approve the amendment to Business and Professions Code section 4332; s/Dr. Krauss. Motion carried unanimously (13-0).

Ms. Simoes moved to the next proposal, which pertained to licensing postgraduate clean up. The first was Business and Professions Code section 2065(h), which states, “and who is accepted into an approved training program in another state or in Canada”. Ms. Simoes explained that the Board is only interested in licensees going into postgraduate training programs in California, so that language was not needed.

Ms. Simoes continued to the next cleanup bill, Business and Professions Code section 2113(e), saying the statute mistakenly removed needed language that allows the Board to accept the clinical practice appointment in lieu of post-graduate training to qualify for licensure.

She then introduced Business and Professions Code section 2135.5 to clarify that the applicant must meet the postgraduate training requirements pursuant to Business and Professions Code section 2096.

Ms. Simoes concluded with an enforcement change, amending Business and Professions Code section125.9 related to cite and fines for all boards requiring licensees to also comply with the order of abatement, in addition to paying the fines.

Dr. Krauss made a motion to approve the amendments for Business and Professions Code section 2065, 2113, and 2135.5; s/Dr. Lewis.

Dr. Yip asked about the clinical practice appointment if it was for people in the university appointment regarding their training and residency.

Ms. Webb responded yes, they’re like faculty and are limited to practicing in that location and its affiliated sites. She continued that they can use their clinical experience to qualify for post-graduate training to make them eligible for a license. She added that with the change in law, that piece was missing.

Dr. Yip inquired if it’s three years.

Ms. Webb replied yes, as of 2020.

Motion carried unanimously (13-0).

Ms. Simoes asked if any members of the Board had questions on the regulatory matrix on agenda item 11C.

Agenda Item 12 Discussion and Possible Action on Recommendation from the Special Faculty Permit Review Committee

Dr. GnanaDev introduced Agenda Item 12 by explaining the Special Faculty Permit Review Committee held a teleconference meeting August 22, 2019, to discuss the applications of Dr. Joanna Chickery and Dr. Santiago Horgan.

Dr. GnanaDev explained that Dr. Chickery, if approved, will hold a full time faculty appointment as a Professor of Medicine, Step 3 at UCLA and will work as the Chair of a newly formed Department of Cardiac Surgery subject to Board approval. He remarked that UCLA recommends the Board approve Dr. Chickery's application for a Special Faculty Permit and appoint her as Chair of the Department of Surgery.

Dr. GnanaDev made a motion that the Board approve Dr. Chickery for the Business and Professions section 2168.1(a) (1) (a); s/Ms. Lawson. Motion carried (12-0, Lewis absent).

Dr. GnanaDev made a second motion that the Board approved Dr. Chickery for appointment as Chair of the Department of Cardiac Surgery pursuant to Business and Professions Code section 2168.1 (c) (1); s/Dr. Krauss. Motion carried (12-0, Lewis absent).

Dr. GnanaDev continued that the second applicant is Dr. Santiago Horgan whose area of expertise is specialty in natural orifice transluminal endoscopic surgery. He added that Dr. Horgan's ongoing work in the Center for the Future of Surgery to investigate, develop, test and teach innovative procedures is helping to revolutionize the field of surgery, and UCSD now seeks the Board's approval to have him approved as the Chair of the Department of Minimally Invasive Surgery at the UCSD Minimally Invasive Surgery at UCSD.

Dr. GnanaDev continued that the Committee has reviewed Dr. Horgan's qualification and recommends that the Board approve Dr. Horgan for the appointment as Chair of the Department of Minimally Invasive Surgery at UCSD.

Dr. GnanaDev made a motion to approve Dr. Horgan for appointment as Chair of the Department of Minimally Invasive Surgery, pursuant to the Business and Professions Code section 2168.1(c)(1) at the University of California, San Diego, School of Medicine; s/Dr. Krauss. Motion carried (12-0, Lewis absent).

Agenda Item 13 Presentation on the Citation and Fine Program

Ms. Jones, Chief of Enforcement for the Board, began her presentation by explaining Business and Profession Code section 125.9, which allows the Board to issue a cite and fine for a minor violation of the Medical Practice Act. She detailed that these citations can come from Central Complaint Unit (CCU), Discipline Coordination Unit (DCU), Probation or Licensing. Ms. Jones stated that the a greater percentage of the citations come from the enforcement side, and it is

a useful tool for taking an action without the expense and time of an accusation being filed, but that Licensing has utilized the citation process for renewal applicants who failed to comply with their CME requirements.

Ms. Jones elaborated that fines under the Citation Program can range from $0 to $5,000. She added that those fines are based on generally three areas of concern. The gravity of the violation, the good or bad faith by the person involved, and the history of previous violations. Ms. Jones stated that the Board has a list of 90 specific regulations which address when a citation could be issued. Ms. Jones provided further information on the cite and fine process. Ms. Jones stated in conclusion that citations are disclosed to the public, and the public records are retained for three years from the date of resolution.

Dr. Lewis inquired if the cites and fines remain posted for three years no matter the type of cite/fine.

Ms. Jones responded yes, to her understanding.

Dr. Lewis asked if the physician immediately remedies the cite/fine would it be taken off the record.

Ms. Webb clarified that the citation and fine would only be removed from the record if it's withdrawn. She added that even if they pay the fine, the cite and fine is posted for three years.

Ms. Rhee stated she had a concern with the hiring of Ms. Jones as there was a complaint made against her when she was on the Arizona Medical Board.

Ms. Hollingsworth stated her concern about the use of citations for doctors who've failed to fulfill their agreements and stipulated decisions. She used the example of a doctor who had an agreement to have a cease practice order if he failed a biological fluid test. She added that there have been several cases where a doctor has been allowed to have only a citation and $350 fine instead of a cease practice order and an accusation, and that it puts patients' safety at risk.

Agenda Item 14 Update from the Health Quality Investigation Unit

Mr. Chriss, Chief of DCA's Division of Investigation, and Ms. Nicholls, Deputy Chief, provided updates on the Division's Health Quality Investigation Unit (HQIU), which is currently made up of eight investigators with eight vacancies. He explained that of the eight vacancies, six candidates were given conditional employment offers pending backgrounds and they intend to be fully staffed shortly.

He added that October was HQIU's most productive month with 159 investigations. Mr. Chriss said all investigators are scheduled for an eight hour POST approved course on implicit bias to be completed December 2019. He shared that in September 2019, all supervisors and managers attended leadership training and that the unit is currently accepting nominations for annual Chief Staff Appreciation Awards which will be presented early 2020.

Dr. GnanaDev inquired if they had shortened their timelines.

Mr. Chriss responded that the timelines have slightly improved, but that they've been impacted by the vacancies. He added that he anticipates it to be much improved by the next Board meeting.

Dr. GnanaDev requested Mr. Chriss present a graph at the next Board meeting to show the improvement.

Dr. Krauss offered thanks for the good work and stated he loved hearing the optimism regarding shortening the timeline. He inquired what Mr. Chriss projected to be the shortest average timeline.

Ms. Nicholls stated with adequate staffing, they should be able to investigate every case within a year, but that for urgent cases it should be much lower – within six months. She explained that the ideal caseload per sworn investigator is 15, but many are still in the 40s.

Mr. Chriss stated they created the taskforce in order to bridge the gap between the investigator vacancies and new hire trainings.

Ms. Rhee opined that the implicit bias training doesn't work stating that an email about an advocate group meeting sent from the Board was never sent to Black Patients Matter as an example.

Mr. Andrist commented that the Board Member Administrative Manual states it accepts the Robert Rules of Order and requested Ms. Webb to look into it.

Ms. Webb responded that it was accepted as a guideline.

Mr. Andrist described three cases of how HQIU oversees public reprimands where he states three patients died due to doctor's incompetence and the physicians only received public reprimands.

Dr. Gill said he concurred with Mr. Chriss and Ms. Nicholls on agenda item 14, that there needs to be more staff in HQIU and CCU, stating he's been involved in complaints where investigators are overwhelmed causing delays and problems where evidence is being lost.

Agenda Item 15 Update on Health Professions Education Foundation

Dr. GnanaDev stated he attended his first Health Professions Education Foundation (HPEF) Board Meeting. He will present information at then next Board meeting.

Ms. Pines stated that before adjournment for the day, she wanted to recognize Ms. Kirchmeyer, the Board's Executive Director, who was appointed as the Director of the Department of Consumer Affairs on October 28, 2019. Ms. Pines thanked Ms. Kirchmeyer for her work and dedication to the Board. She stated Ms. Kirchmeyer has given hundreds of presentations statewide to allow licensees and consumers to obtain a better understanding of the Board and its mission. She added that Ms. Kirchmeyer played an active role in national and international committees to share knowledge from California, but also to gain insights into

strategies employed by other organizations which she then shared and implemented with the Board. Board Members expressed their thanks to Ms. Kirchmeyer. Ms. Kirchmeyer shared her gratitude for the Members and emphasized the consumer protection mission of the Board.

Ms. Pines adjourned the meeting at 6:58 p.m.

RECESS

Friday, August 8, 2019

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
Susan F. Friedman
Dev GnanaDev, M.D.
Randy W. Hawkins, M.D.
Howard R. Krauss, M.D., Secretary
Kristina D. Lawson, J.D.
Ronald H. Lewis, M.D., Vice President
Asif Mahmood, M.D.
Richard E. Thorp, M.D.
David Warmoth
Eserick “TJ” Watkins
Felix C. Yip, M.D.

Members Absent:
Laurie Rose Lubiano, J.D.

Staff Present:
Mary Kathryn Cruz Jones, Associate Governmental Program Analyst
Jenna Jones, Chief of Enforcement
Christine Lally, Deputy Director
Sheronnia Little, Information Technology Specialist I
Jane Montes, Staff Services Analyst
Regina Rao, Associate Governmental Program Analyst
Elizabeth Rojas, Staff Services Analyst
Jennifer Simoes, Chief of Legislation
Laura Sweet, Staff Services Manager III (Retired Annuitant)
Carlos Villatoro, Public Information Officer II
Kerrie Webb, Staff Counsel

Members of the Audience:
Eric Andrist
Claudia Breglia, L.M.
Zennie Coughlin, Kaiser Permanente
Sarah Davis, L.M., California Association of Licensed Midwives

Faith Gibson, L.M., California College of Midwives
Kanwar Gill, M.D.
Bridget Gramme, Center for Public Interest Law
Christina Hildebrand, A Voice for Choice Advocacy
Rodney Hood, National Medical Association
Susan Lauren
Connie Mitchell, M.D., Deputy Director, Center for Family Health, California Department of Public Health
Karen Miyamoto, M.D., California Society of Addiction Medicine
Colin Parker
Ashley Reeves
Hanna Rhee, Black Patients Matter

Agenda Item 16 Call to Order/Roll Call/Establishment of a Quorum

Ms. Pines called the meeting of the Medical Board of California (Board) to order on November 8, 2019, at 9:05 a.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 17 Public Comments on Items not on the Agenda

Ms. Rhee said her organization is upset that certain speakers target underrepresented minority Board members or other members. She said ongoing health care disparities are concern for her group and pointed out a lack of health care providers from underrepresented minority groups.

Ms. Gibson said there is a legal reason for not banning vaginal birth after cesarean (VBAC) births. She cited an appellate court ruling in 1990 that stated the only reason for obstetricians to do something contrary to the mother's wishes would be in extremely rare or extraordinary circumstances. She also cited the America College of Obstetricians and Gynecologists' (ACOG) opinion regarding VBAC births in favor of the patient's wishes and emphasizing the importance of patient autonomy. She offered to do a presentation to the Board regarding midwifery.

Mr. Parker provided details of the Board's handling of the complaint he filed with the Board regarding the death of his wife and expressed his disapproval of how the Board handled his complaint.

Ms. Lauren provided details of her closed complaint and her experience with Dr. Berger. She shared that Dr. Berger assaulted her during her breast reduction surgery and performed liposuction on her without her consent. She said Dr. Berger lied and his medical records were inaccurate. She noted that the surgeries performed by Dr. Berger have medically harmed her. She advocated for a change in liposuction regulations and for surgical assault to be classified as a criminal act.

Mr. Andrist said the Board purposely holds its meetings at expensive hotels to deter people from attending. He proclaimed that the Board is mistaken regarding Robert's Rules of Order and is not transparent with its public records. He questioned the Board's use of Spanish social media posts, and lack of Spanish related documents on the Board's website. He asserted that

the makeup of the panel hearings should be random to avoid conflict of interests and said the Board took too much time in the discipline of Dr. Frank Fisher.

Dr. Gill said the Governor's office does not look for conflict of interest and it is worrisome because doctors don't get a fair hearing from the Board because they are not able to preserve those personal self-interests with Board members. He noted that the Board's website about CME is identical to American Board of Medical Specialties (ABMS) requirements regarding CME. He expressed that the ACCME has been trying to hold captive AMA PRA credit since 2009, and that they are going to pass the costs onto CME providers and CME will pass the costs onto physicians.

Ms. Hildebrand said the Board is going out of its way to investigate medical exemption complaints and at the same time, is ignoring other types of complaints. She requested the Board look into the disparity. She said the Board charges extraneous amounts for its Public Records Act (PRA) requests and stated it is much less likely that the people get the information they want because they do not have the money. She called for patients or consumer advocates to take positions on the Board or give presentations at Board meetings.

Ms. Reeves said the Board is not adequately addressing the issue of vaccine safety and the risk of adverse reactions related to vaccines. She expressed that doctors are not trained to report to the Vaccine Adverse Event Reporting System (VAERS) and do not know it exists. She questioned the steps that the Board is taking to ensure that doctors don't discriminate against patients who are vaccine injured and/or deny them medical care. She asked what steps the Board was taking to make sure that physicians are providing adequate informed consent about vaccines to their patients.

Agenda Item 18 Overview of the California Maternal Health and Morbidity Rates and Initiatives

Dr. Mitchell spoke about maternal mortality and morbidity in California. California experiences the births of 1,500 babies each day, with 96 percent of pregnant women receiving maternal health and 43 percent are insured by Medi-Cal. Each baby born in California is screened for 80 different genetic conditions and results are provided to pediatricians throughout the state. She said the state is experiencing a decrease in the birth rate, an increase of maternal age of first pregnancy, a decrease overall in the preterm birth rate, a decrease in maternal mortality, and a decrease in the adolescent birth rate.

She noted that California is doing well on several measures, however, the state is experiencing increased morbidity related to pregnancy and persistent disparities in all perinatal outcomes, including infant mortality and infant health outcomes.

She stated that rates of maternal mortality were gradually rising in the U.S. in the early 2000s to a peak around 2006 and 2007. Every state was paying attention to the issue. California began examining maternal mortality cases using medical records for insight into what was causing the women's deaths. Results indicated several opportunities to improve the quality of obstetrical care.

The California Department of Public Health (CDPH) developed toolkits to assist physicians regarding individual care decisions, as well as systemic care. CDPH also engaged in quality improvement efforts and engaged with obstetric hospitals throughout the state. CDPH empowered advocacy groups, hospitals and providers who were educating women, and started to see a decline in maternal mortality rates in California, as the national rates continued to rise.

Dr. Mitchell credited good data, followed by action, and the involvement of multiple partners for the decrease in maternal mortality rates in California. The maternal mortality ratios by race and ethnicity are not as good, and there has not been much change in that area. At its peak, the disparity ratio rate was at 4.4, which was brought down to 3.8 when CDPH began its efforts to curb the maternal mortality rates. Dr. Mitchell noted that the rate is still too high at 3.8.

Pregnancy related mortality ratios by race ethnicity, divided by age, revealed that mothers greater than 40 have the highest rates of death, with a disparity between black and white maternal mortality rates continuing across all socioeconomic factors. A chronic inflammatory state caused by a high level of toxic stress related to long-term racism contributed to the racial disparity, regardless of higher education and income.

The framework for action consisted of the Pregnancy Associated Mortality Review Team (PAMR), CDPH, and Stanford's California Maternal Quality Care Collaborative to report data, develop toolkits, and provide consultation to hospitals. The Expert Review Committee committed time as volunteers.

Dr. Mitchell said that based on reviews of obstetric deaths, only 70 percent of deaths were coded correctly as obstetric deaths. Cardiovascular disease was the leading cause of death, with many cases of cardiovascular disease occurring late in the postpartum period, which extends to one year, when women may drop out of care.

Dr. Mitchell stated timely diagnosis and reference to standardized evidence-based management were themes in quality improvement, regarding specific medical conditions, such as obstetric hemorrhage, pre-eclampsia, cardiomyopathy, and amniotic fluid embolism. She said they found delayed action in response to warning signs, as well as a need for coordination of care, hospital transfers, and blood banking. Because rescue care of pregnant women is rare, code teams were needed to manage them, or the obstetrics team needed to drill to hone their rescue care skills.

Access to care including timely referral to medical consultants and specialists was also an issue. Maximizing the health of women before, during, and postpartum pregnancy was essential. Attention was needed to the health of women of reproductive age before they become pregnant.

Dr. Mitchell stated that several toolkits to transform maternity care were developed by CDPH, in cooperation with the March of Dimes and the California Maternal Quality Care Collaborative, to reduce NICU admissions and reduce cesarean section rates. Regional Perinatal Programs of California (RPPC) met with obstetric hospitals to identify barriers and encourage quality improvement efforts.

Dr. Mitchell identified contributions that led to improvement, i.e., collective impact, the combination of surveillance, investigation, and widely shared data, multiple partnerships, and engaging providers and hospitals rather than blaming them.

All reports and toolkits are available online through the CDPH's Maternal Child and Adolescent Health Division.

Statistics showing that 63,000 women suffer a near-death event in childbirth revealed racial and ethnic disparities regarding maternal morbidity-related conditions, including gestational diabetes and hypertension, with attention needed to later postpartum, over 42 days after delivery. Public health efforts to be continued include surveillance, maximizing health prior to pregnancy, system changes, and addressing postpartum needs.

Dr. Mitchell said the Board can help address the issue by continuing to influence improved care by individual providers; promoting life course theory (maximizing health of women and girls of reproductive age); ensuring good prevention care, e.g., oral health and vaccinations; addressing mental health needs; and screening for Adverse Childhood Experience (ACE), substance abuse, and depression.

Implicit bias by providers may be a factor in disparity, and if so, it indicates a need for training, processes, or programs with evidence of effectiveness. Social services referrals should be encouraged, along with value-based incentives based on perinatal outcomes, support of advancement in systems of maternity health care, and increased partnership between hospital and community.

Dr. Krauss suggested information pieces in the Board's newsletter regarding maternal mortality. He also suggested a possible collaboration and asked if Dr. Mitchell would be willing to review expert reviewer opinions on obstetric opinions and asked if the Board should broaden or strengthen obstetric experts reviewing complaints. He pointed out that some of Dr. Mitchell's suggestions could require some legislation and asked for Dr. Mitchell to work with Ms. Simoes on any potential legislation.

Dr. Hawkins asked about up-to-date data regarding maternal health, how the connection between chronic inflammation and racism was ferreted, and Dr. Mitchell's thoughts on Medi-Cal patients who have issues with referrals and the impact of medical insurance on mortality.

Dr. Mitchell explained that a lack of good alignment between the death certificate and the data in the medical record resulted in the death certificate becoming less reliable. She said proposed changes in the death certificate within the next two years would hopefully fix the problem. She also indicated they were incorporating a different methodology from the Centers for Disease Control and Prevention (CDC). She added that racism is not the only issue, but also the physiologic links between elevated cortisol, hyper-inflammatory states, and particularly in pre-eclampsia. She said medical issues may be improved if referrals were easier.

Dr. Yip asked about weight, body-mass index in infants, and whether changes in immigration status caused documented or undocumented patients to be unwilling to go to a prenatal clinic. He asked if licensed midwives were included in the collection of delivery data.

Dr. Mitchell said representatives from midwifery organizations were involved in the review process and contributed to the development of the toolkits. She noted while emergency Medi-Cal and WIC is offered to women regardless of immigration status, they were watching data to look for trends in women dropping out of care because of certain climates or new positions around immigration.

Ms. Friedman asked about maternal mortality statistics during the period of 42 days to one year postpartum and asked for Dr. Mitchell's recommendations on needed legislation.

Dr. Mitchell explained that maternal mortality was divided into early (up to 42 days postpartum) and late. The preponderance of the deaths did occur towards time of delivery, decreasing to 42 days. She stressed a need for more focus on late postpartum. She explained that because she works in the executive branch, she could not suggest legislation but could provide technical assistance when ideas are proposed to CDPH's Office of Legislative and Government Affairs.

Dr. GnanaDev asked about Hispanic mortality rates.

Dr. Mitchell referred to the "Hispanic paradox," the apparent health benefits within the Hispanic culture. She suggested newly-arriving or U.S.-born Hispanic women tend to be healthier, possibly due to strong family connections or cultural practices. However, the disparity increases over time after enculturation and increased time spent in the United States.

Dr. Mahmood asked about surveillance after the Affordable Care Act (ACA) went into effect and whether she had seen studies comparing inner cities, rural, and urban women.

Dr. Mitchell said the ACA had increased access to care in California and that in studying the period from 2013 forward, ACA impact will be a variable. She said there was a difference between urban and rural, where access to care was harder, and would be a variable to be looked at in future.

Mr. Watkins asked Dr. Mitchell to explain more about good data, action from data, and the methodology followed.

Dr. Mitchell explained that they looked at each case to understand what was happening and then went one step further to determine contributors to the death. Her committee was then asked if they saw a specific quality improvement opportunity where if something different would have been done, it would have led to survival. They then developed pathways and resources which gave providers a willingness to participate. The California Maternal Quality Care Collaborative acted as a go-between for CDPH and providers, giving providers immediate data about impact of changes made.

Ms. Lawson questioned what was being done to address toxic stress and long-term conditions and what CDPH was doing to export their results to the rest of nation. She asked if CDPH looked at racism in the health care system, specifically related to pregnancy or more broadly.

Dr. Mitchell mentioned the social determinants of health that led to disparities and touched on some programs to make women aware of risk and introduce the concept of chronic toxic stress of racism, including the black infant health program, funding intensive programs for counties

with over 90 percent African-American births, and programs through the Perinatal Equity Initiative to help with access to care and encourage fatherhood engagement. All experiences of racism contributing to higher risk are looked at as a conglomerate. She discussed the life course theory, which suggests that risk exposure and protective factors contribute to a person's health trajectory. Regarding California's role in leadership, CDPH has been recognized nationally and internationally for their work, and was invited to provide data to the White House at the request of Michelle Obama.

Dr. Krauss asked about data on VBAC regarding maternal mortality. Even though the Board had voted not to sponsor recent VBAC legislation, the data would be useful in making future decisions to promote legislative actions.

Dr. Mitchell said they looked at C-section, but she did not include that data in her presentation. While the first C-section may have not been a risk factor in maternal mortality, subsequent C-section was.

Ms. Pines asked if Dr. Mitchell was seeing more C-sections among women of color. Dr. Mitchell did not have data on this, but said they were working to try to reduce elective delivery.

Dr. Hawkins asked if the neonatal outcomes of babies whose mothers had died had been studied. Dr. Mitchell said that in most deaths occurring around time of delivery, most children were safely delivered.

Dr. Thorp asked about late complications. He said a challenge existed for Medi-Cal patients to obtain the certain types of medications for cardiovascular disease and hypertension that are available to others. He stated that the consistency to provide these medicines across the spectrum of care was a challenge.

Dr. Mitchell said they had not been able to do intense investigation in late maternal deaths. She noted the issue of pharmacology choice and availability for future study.

Ms. Sarah Davis, licensed midwife, recommended two resources: (1) Oakland-based Black Women Birthing Justice, publisher of *Battling Over Birth: Black Women and the Maternal Health Care Crisis in California*. An executive summary is available for free download on their website which includes recommendations to policy makers, and (2) Listening to Mothers in California, a study by the California Health Care Foundation. She added that the chronic toxic stress burden, implicit bias, and explicit racism do occur and black patients' complaints of pain are not taken seriously compared to white patients.

Ms. Rhee stated that a Board Member's question about the Hispanic paradox indicated a lack of understanding about race. She encouraged future studies to investigate whether African-American patients were treated by a black doctor or a non-black doctor and expressed a need for more black doctors and nurses.

Ms. Gibson reiterated that the feedback issue starts with the contrast to the repeat cesarean, which is more problematic than the primary one.

Ms. Hildebrand recommended a publication by the Oakland Better Birth Foundation, *Birth: A Black Woman's Guide to Surviving and Thriving*. She emphasized the importance of midwifery and doulas in improving outcomes among African-Americans.

Mr. Andrist read a statement on behalf of Marian Hollingsworth which questioned why a report on maternal mortality was presented at a Board meeting, since boards don't prevent deaths, but just review a doctor's action after death. He criticized the Board's track record in allowing doctors to continue practicing after they have been found responsible for a death. He said doctors should not be allowed to continue practicing while waiting for the Board to act.

Agenda Item 19 Update, Discussion, and Possible Action of Recommendations from the Midwifery Advisory Council Meeting

Ms. Breglia, Vice Chair of the Midwifery Advisory Committee (MAC), provided information about the last MAC meeting on August 22, 2019. MAC created a task force to revise midwifery guidelines, created a task force to investigate problems that parents are having in obtaining Social Security cards and filing birth certificates for infants born out of hospital, and created a task force to investigate issues surrounding Medi-Cal. MAC discussed adding ethnicity of midwifery clients to the licensed midwives annual report statistics, and discussed establishing goals for MAC. She stated that MAC members received updates on midwife legislation, the midwife program, and on the licensed midwives annual report.

Ms. Breglia requested that the Board approve various agenda items for the next MAC meeting, including, establishing goals for MAC and receiving updated midwifery legislation; allowing the Taskforce on Medi-Cal Related Issues and the Taskforce on Revision of the Guidelines for Midwifery Practice to give reports; a presentation on a survey regarding physician refusal to provide care for clients of licensed midwives; a report from the counsel chair including an update on the midwifery program, meeting dates for 2020, and discussion on the data collected on the licensed midwives annual report.

She concluded that in light of yesterday's agenda items regarding proposed midwifery legislation, she'd like to add an additional item on the agenda to allow discussion of next steps for resolution of the issues preventing regulation and implementation of AB 1308.

Ms. Rhee suggested that more black-minded leaders are needed.

Ms. Friedman asked for clarification of Ms. Breglia's request to discuss physicians refusing to supply care to a patient who uses a midwife and if there was data available on that issue. Ms. Breglia said there were statistics available, and her personal experience was that almost every midwife had problems referring a client for medical care when needed.

Dr. Lewis moved to approve the agenda items; s/Dr. Krauss. Motion carried unanimously (12-0).

Agenda Item 20 Discussion and Possible Action to Amend Title 16, California Code of Regulations, Section 1364.10 and Repeal Sections 1364.11 Regarding Citations and Fines

Ms. Webb, Staff Counsel, discussed changes to the regulation on citable offenses. Staff recommended changing the structure of regulations to remove the list of citable offenses and permit the Board to issue a cite-and-fine and/or order of abatement for violation of any statute or regulation which would be grounds for discipline by the Board, thus alleviating the issue of the list being perpetually outdated. Staff also proposed consolidating remaining provisions from Section 1364.11 into Section 1364.10, resulting in repeal of Section 1364.11 and reducing number of regulations and streamlining it.

She said staff updated language to refer to the amount of the fine authorized by Business and Professions Code section 125.9, rather than specifying figures in the regulation, which will keep the regulation current and eliminate a laborious and time-consuming rulemaking process.

She mentioned other minor changes in the regulation, e.g., changing “his/her” to “their.”

Dr. Hawkins asked if the Board would be vulnerable to a physician who says “that wasn’t on the list.”

Ms. Webb said under the current structure, the Board couldn’t issue a cite-and-fine or order of abatement if it wasn’t on the list. These are for cases where another action or formal discipline will not be taken. A cite-and-fine based on a preponderance of the evidence would help educate physicians, bring physicians into compliance, and also alert the public.

Dr. Krauss moved to direct staff to prepare necessary regulatory documents to submit to DCA and the Business, Consumer Services and Housing Agency, and upon DCA and Agency approval, submit the documents to the Office of Administrative Law to notice the proposed regulatory language to amend Title 16 of the California Code of Regulations, Section 1364.10 and Repeal Sections 1364.11 and authorize staff to make non-substantive changes to the language and respond to non-substantive comments during the rulemaking process without returning to the Board. s/Dr. Lewis. Motion carried unanimously (12-0).

Agenda Item 21 Discussion and Possible Action to Repeal Title 16, California Code of Regulations, Sections 1357, 1357.1, 1357.2, 1357.3, 1357.4, 1357.5, 1357.6, 1357.8, and 1357.9 and Add Sections 1357.10, 1357.11, 1357.12, 1357.13, 1357.14, 1357.15, and 1357.16 Regarding the Physician and Surgeon Health and Wellness Program

Ms. Webb explained that the Legislature authorized the Board to develop a Physician Health and Wellness Program (PHWP) for physicians with substance abuse problems. Board staff conducted two interested parties meetings and prepared proposed regulations that were approved by the Board. As the rulemaking package was moving through the review process, meetings were being held to change terms of the Uniform Standards for Substance-Abusing Licensees, which are the foundation of PHWP. The authorizing statute requires the PHWP to be consistent with the Uniform Standards. In anticipation of changes and the review process,

staff recommends changing the structure of the proposed PHWP regulations at this juncture to include the language from the Uniform Standards in the regulations. The change should make the review process for the regulations easier, streamline it, and reduce the need for rulemaking on two packages each time a change is made.

The proposal also repeals the sections regarding the diversion program, as they have been non-operational since 2008.

Board Staff has been recently asked if individuals with a postgraduate training license would be able to participate in the PHWP. The current language does not include postgraduate training licensees. However, if the Board wishes to include it, staff can make the change, and broaden the definition to include those individuals.

Dr. Krauss asked if the PHWP would include psychological and psychiatric issues. Ms. Webb said the statute restricts it to substance abuse.

Ms. Webb asked whether the Board wanted to add individuals who don't have a full license in the PHWP.

Dr. Krauss suggested they should include postgraduate training licensees. Dr. Lewis agreed with Dr. Krauss and said individuals with postgraduate training licenses should be included in the language.

Ms. Webb suggested the motion be for the Board to authorize staff to prepare the necessary regulatory documents to submit to DCA and Agency, and upon DCA and Agency approval, submit the documents to the Office of Administrative Law to notice the proposed regulatory language to repeal Title 16 of the CCR, sections 1357 through 1357.9 and to add sections 1357.10 through 1357.16, with the addition to broaden the definition of eligible participants to include those with postgraduate training licenses and authorize staff to make non-substantive changes to the language and respond to non-substantive comments during the rulemaking process without returning to the Board.

Dr. Lewis made the motion to support the request; s/Dr, Krauss. Motion carried (11-0, Dr. Mahmood absent).

Agenda Item 22 Discussion and Possible Action to Withdraw Proposed Rulemaking for Title 16, California Code of Regulations, section 1399.545 Regarding the Supervision Required for Physician Assistants

Ms. Webb explained that passage of Senate Bill 697 changing how physician assistants are supervised made this proposed rulemaking irrelevant in its current format. The PA board took action to approve withdrawal and Ms. Webb recommended this Board do the same.

Dr. Karen Miyamoto brought up the inconsistencies and difficulties with the Uniform Standards, which have led to decreased participation in all the Board programs. She recommended that it be addressed to have a fully viable program.

Dr. Gill noted that a widespread disregard of statutory provision occurred in California. He said there was a lack of compliance with the law regarding scheduled substances and that violators had altered electronic medical records to cover their offenses. He added that SB 697 is one with retroactive provisions.

Dr. Lewis made a motion to direct staff to withdraw the pending rulemaking on Title 16 of the CCR, section 1399.545, regarding supervision required for physician assistants; s/Mr. Watkins. Motion carried unanimously (12-0).

Agenda Item 23 Update on the Stem Cell and Regenerative Therapy Task Force

Dr. Hawkins and Dr. Krauss updated the Board on past meetings of the task force established in October 2018, which reviewed the policy adopted by the Federation of State Medical Boards (FSMB) that contained several recommendations for state boards regarding regenerative and stem cell therapy practices.

Dr. Krauss explained that on June 27, 2019, task force members met to discuss oversight options the Board may decide to pursue to protect California consumers from unapproved and potentially dangerous stem cell products or regenerative therapies. Options included educational materials, outreach, and best practice guidelines similar to those adopted by FSMB. Guidance for more in-depth informed consent and adverse event reporting were discussed. The task force agreed to hold a Stem Cell and Regenerative Medicine Interested Parties Meeting to gather information from consumers, experts, and stakeholders.

Dr. Hawkins reported that on September 18, 2019, the task force held a Stem Cell and Regenerative Medicine Interested Parties Meeting which included presentations by Dr. Maria Millan, President of California Institute of Regenerative Medicine; Dr. Charity Dean, Assistant Director and Acting Public Health Officer, California Department of Public Health, and Dr. Mehrdad Abedi, Professor at UC Davis.

Dr. Krauss said the information from the interested parties meeting would be compiled, and the task force will develop guidance documents for physicians regarding stem cell and regenerative therapies, a sample informed consent document, and consumer education materials for final approval by the Board.

Ms. Friedman asked how adverse events would be reported. Dr. Krauss said the mechanism had not been fully developed for adverse event reporting, but reporting health care providers would be required to report once legislation is passed, and consumer complaints would be encouraged. Ms. Friedman advised that stem cell clinics in California and Florida have egregious issues. She later clarified she was referring to “stem cell spas,” not state agencies performing rigorous research. Dr. Krauss said these questions would be answered as the task force continued its work.

Dr. Lewis asked about the consent form used by the FSMB. Dr. Krauss said the consent form should come before the Board for refinement.

Ms. Rhee commented that stem cell therapy is popular, and she has talked to patients who have benefited.

Dr. Hawkins cautioned that clinical trials to evaluate the efficacy of stem cell treatment were ongoing, but much of what is going on is not being monitored, and testimonials may or may not be accurate.

Agenda Item 24 Future Agenda Items

Ms. Pines said the Board will meet again in January followed by a two-hour meeting with patient advocates on Friday after the official Board meeting.

Dr. Lewis requested an item to discuss social media and its positive and negative impacts on physicians and others.

Dr. GnanaDev requested a presentation from representatives from ACGME, Accreditation Council for Graduate Medical Education, to determine how the Board can get into reentry education program for physicians.

Mr. Warmoth requested an update on the Board's phone app, specifically on status of the Android version of the app.

Mr. Watkins requested future presentations from (1) a reputable expert in the area of boundary violations, especially as they pertain to sexual misconduct; (2) licensed midwives with statistics and information about the pros and cons of VBAC.

Dr. Thorp requested a presentation form the Board of Pharmacy to strengthen the collaboration between Board of Pharmacy and Medical Board, noting that the relationship with practicing pharmacists had eroded over the years.

Ms. Rhee requested that the Board consider a presentation from a historically black college or university in California.

Ms. Gramme requested that the Board consider disclosure of payments received from pharmaceutical and device companies. She added that one of her students had done research that discovered disparities between online review companies compared to doctors' disciplinary records, a study which could help in the discussion of social media's impact on physicians.

Mr. Andrist took issue with holding the patient advocate meeting in Northern California, when most patient advocates live in Southern California. He asked the Board to discuss the Public Records Act.

Dr. Gill noted that the Board's website is a good resource, but sometimes information is not correct and regulatory changes should be updated on the site.

Ms. Hildebrand requested agenda items on (1) Training and discussion of VAERS; (2) How doctors should practice when insurance dictates patient care; (3) the standard of care and how most recent research is included (4) SB 714 and 276 legislation.

Ms. Pines presented a plaque to Ms. Friedman whose term expires in December 2019, and thanked her for her service. Ms. Friedman said she had enjoyed serving on the Board.

Agenda Item 25 Adjournment

Ms. Pines adjourned the meeting at 12:58 p.m.

Signature on File	1/30/20
Denise Pines, President	Date
Signature on File	1/30/20
Howard R. Krauss, M.D., Secretary	Date
Signature on File	1/30/20
Christine J. Lally, Deputy Director	Date