



# 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

## Webex Online

May 7, 2020

## MEETING MINUTES

Thursday, May 7, 2020

*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  
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:

Charlotte Clark, Information Technology Supervisor  
Mary Kathryn Cruz Jones, Associate Governmental Program Analyst  
Sean Eichelkraut, Information Technology Manager  
Jenna Jones, Chief of Enforcement  
Christine Lally, Interim Executive Director  
Marina O'Connor, Chief of Licensing  
Letitia Robinson, Research Data Specialist  
Lisa Toof, Staff Services Manager  
Carlos Villatoro, Public Information Officer  
Kerrie Webb, Staff Counsel

### Members of the Audience:

Eric Andrist  
Katherine Brown  
Gloria Castro  
Yvonne Choong  
Zennie Coughlin  
Rosanna Davis  
Elizabeth Donnelly  
Maggie Fasbender  
Julie Fellmeth

Faith Gibson  
Latrice Hemphill  
Marian Hollingsworth  
Bethelen Johnson  
Jen Kamel  
Wendy Knecht  
Parie Lambert  
Susan Lauren  
James Lin  
Sosan Madanat  
Paris Maloof-Bury  
Tania McCracken  
Michele Monserratt  
William Muetzenberg  
Kavita Noble  
John Perry  
Marisol Prieto-Valle  
Hanna Rhee  
Nicholas Rubashkin  
Rehan Sheikh  
LeAnne Shields  
Holly Smith  
Pearl Yu

**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 May 7, 2020, at 2:57 p.m. A quorum was present and due notice was provided to all interested parties.

**Agenda Item 2      Public Comments on Items not on the Agenda**

Ms. Lauren expressed her concern over the Beverly Hills City Council's vote to resume elective plastic surgery. Ms. Lauren discussed her personal injuries from plastic surgery and voiced her dissatisfaction of the Board's discipline rate. Ms. Lauren provided statistics from the Los Angeles coroner and commented on complications from plastic surgery. Ms. Lauren listed several legislative proposals to improve liposuction.

Ms. Rhee commented on the importance of California leading in healthcare diversity and religious tolerance in the era of COVID-19. Ms. Rhee thanked the supporters of Black Patients Matter and requested an African American Black Patients Matter advocate to present to the Board. Ms. Rhee asked Board Members to step down if they don't feel concerned over racial bias or are upset at the presence of Black Patients Matter.

Mr. Andrist questioned why there was no video being used nor a list of public attendees for this Webex meeting. Mr. Andrist reminded the Board that in the past, he has commented on disciplinary documents that the Board has made available in PDF image-only format or non-OCR format. Mr. Andrist provided information from a legal expert on Adobe's website that states the reason a document would be created this way is to make it difficult for the users. Mr. Andrist requested to have the PDF formats changed. Mr. Andrist also requested follow ups

from his previous request to change the font size on BreZE along with an accusation filed against a physician.

Ms. Gibson requested support of the Board to amend the Medical Practice Act to expand the post-partum scope of practice of licensed midwives from six weeks to twelve months. Ms. Gibson gave statistics of post-partum deaths and complications and explained the importance of extending midwifery medical support to twelve months post-partum.

Ms. Hollingsworth requested an update be given at the next Board meeting regarding The Death Certificate Project. Ms. Hollingsworth also requested the status of cases on maternal and infant deaths during childbirth from the past seven years be given at the next Board meeting.

### **Agenda Item 3      Approval of Minutes from the January 30-31, 2020 Quarterly Board Meeting**

Ms. Pines asked for a motion to approve the minutes from the January 30-31, 2020 Board meeting.

***Dr. Lewis moved to approve the meeting minutes/S: Dr. Hawkins***

Ms. Pines asked for comments from the Board member and web participants.

Ms. Rhee commented that the January 30-31, 2020 Board meeting minutes left out her repeated request to give a presentation on black health during the public comments portion of the meeting. Ms. Rhee requested the minutes to reflect her repeated request.

Ms. Pines asked Ms. Cruz Jones to take the roll.

***Motion carried 10-0 (Dr. Krauss absent, Dr. Yip abstain)***

### **Agenda Item 4      President's Report, including notable accomplishments and priorities**

Ms. Pines reconfirmed the commitment to the Board's mission during this time of uncertainty in response to Coronavirus. Ms. Pines commented that the Department of Consumer Affairs (DCA) and the Board are working together daily to serve the public swiftly and safely. Ms. Pines shared that these unprecedented times have allowed the Board to evaluate workflows and processes, such as telework options and virtual meetings.

Ms. Pines commented on another opportunity for improvement in the sunset review. The sunset review process allows DCA, the legislature, the Board, and stakeholders to discuss performance and make recommendations for change. Ms. Pines shared that the last sunset review was 2017, the extended date for the next sunset review is January 1, 2022, and more information on the process and timeline is expected at the end of the month in light of COVID-19.

Ms. Pines announced the Board's new Executive Director, William Prasifka, who will officially join the Board on June 15, 2020. Ms. Pines also mentioned that the Board is recruiting two full

time positions on the executive team; On April 15, 2020, Governor Newsom appointed Christine Lally as Chief Deputy Director at DCA, and on March 5, 2020, Governor Newsom appointed Jennifer Simoes as Deputy Director of Legislation at DCA.

Ms. Pines shared her gratitude for the Board's staff for their hard work in maintaining the same level of service and professionalism during these uncertain times.

Ms. Pines asked if there were any questions or comments from the Board. There were none. Ms. Pines asked if there were any public comments.

Ms. Rhee commented that another notable accomplishment should be that roundtable sessions were held for advocates who sit at the table along with DCA and the Attorney General's Office. Ms. Rhee suggested that patient advocates, especially those that represent black patients, speak at future meetings.

Mr. Andrist expressed that no one spoke to the stakeholders about the last sunset review. Mr. Andrist commented that he and Ms. Hollingsworth wrote a 200-page report without having the Board comment on it.

#### **Agenda Item 5 Board Member Communications with Interested Parties**

Ms. Pines asked if any Board members had anything to report. Hearing none, Ms. Pines asked for any public comments.

Mr. Andrist thanked everyone for the Interested Parties meeting. Ms. Andrist expressed his concern about a victim who spoke at the meeting and the responses that were given in regard to MICRA.

Ms. Rhee thanked the Board for including Black Patients Matter at the Interested Parties meeting.

#### **Agenda Item 6 Executive Management Reports**

Ms. Lally commented that the Board looks forward to Mr. Prasifka's arrival in June and looks forward to introducing new members of the executive team at the Board meeting in August.

Ms. Lally stated that the Board's fund condition remains unchanged since the January Board meeting. Ms. Lally reported that the Board's fund is at 2.5 months reserve at the end of the current fiscal year. The Board will be at 0.6 months reserve by fiscal year 2020-21.

Ms. Lally reported that at the January meeting, the Board discussed the fee study by CPS HR Consulting and voted to approve the recommended fee level increases to make the necessary statutory changes.

Ms. Lally stated that the legislature recessed on March 16, 2020, due to COVID-19, postponing all bill hearings. After both the senate and assembly return, Ms. Lally anticipates more information regarding legislation the Board needs to raise its fee level in statute.

Ms. Lally thanked the Board members, management, and staff for their leadership and commitment during these unprecedented times. Ms. Lally commented on some of the measures the Board has implemented to combat COVID-19 in the workplace, such as telework options, staggered schedules, physical distancing, closing public access to the building, and frequent cleaning of high frequency common areas, along with outreach programs provided to staff.

Ms. Lally detailed various complaints the Board has received since January regarding COVID-19. These complaints include incorrect information being distributed, testing costs, and allegations of advertisements of cures for the disease with high price tags.

Ms. Lally reported that in mid-March, the Director of the Emergency Medical Services Authority finalized a policy to allow out-of-state licensees to practice in California in response to COVID-19. Ms. Lally reported to date, EMSA has approved 4,496 out-of-state tele-doc physicians and 140 out-of-state physicians.

Ms. Lally discussed the licensing changes that have taken place since the last Board meeting, including postgraduate training changes that took place on January 1, 2020. Ms. Lally explained that current residents attending postgraduate training in California who have not been issued a license must obtain a postgraduate license this year. Ms. Lally expressed the Board is working hard to maintain the initial review of applications within approximately 34 days.

Ms. Lally reported the rate of physicians renewing online remains constant, and the Board encourages all to renew early and online. Ms. Lally discussed the importance of the DOCS Portal to submit of primary source documents to the Board. During this State of Emergency, the Board is accepting documents through U.S. Mail and electronically.

Ms. Lally shared that the licensing program has fielded many questions about the United States Medical Licensing Exam (USMLE). Ms. Lally shared that Prometric is the company that USMLE utilizes and has reopened in the U.S. and Canada. However, to ensure physical distancing, there is not enough room for all of the examinees and Prometric is exploring alternative testing sites. Ms. Lally explained that Livescan fingerprinting services are essential and locations remain open. Livescan fingerprinting locations can be found on the Department of Justice's website.

Ms. Lally reported that Governor Newsom issued Executive Order N-39-20 on March 30, 2020, which states the DCA director may waive any statutory or regulatory requirements for professional licenses pertaining to the healing arts boards, including the Medical Board.

Ms. Lally also reported on two waivers that went into effect on March 30, 2020, that affect Board licensees. DCA-20-01 temporarily waives continuing education requirements for licensees whose license expires between March 31 and June, 2020. Licensees must satisfy continuing education requirements within six months unless the waiver is extended. DCA-20-02 waives continuing education and fee requirements for licensees wanting to restore a retired, inactive or canceled license. Ms. Lally explained that the retired, inactive or canceled license

status must have occurred within the last five years, and this waiver is valid for six months, or when the State of Emergency ceases to exist, whichever is sooner.

Ms. Lally reported that the application to restore a license to active status went live on DCA's website on April 2, 2020, and has since received 157 waiver requests. Of these 157 waiver requests, 47 have been approved and 107 have been denied. A majority of the denials is because the applicant did not qualify for the waiver.

Ms. Lally also reported on additional waivers that have been issued by DCA that would be of interest to licensees. The Physician Assistant Supervision waiver waives the 4-to-1 ratio on physician to physician assistant supervision for all physician assistants and physicians in California. The Nurse Practitioner Supervision waiver waives supervision requirements and allows a physician to supervise more than four nurse practitioners at a time when furnishing or ordering drugs or devices. The Nurse-Midwife Supervision waiver waives supervision requirements and allows physicians to supervise more than four certified nurse-midwives at a time. These waivers terminate on June 13, 2020, unless they are extended.

Ms. Lally shared that just yesterday, the DCA director issued a temporary waiver extending the deadline to obtain a postgraduate training license (PTL) until August 31, 2020. An email blast was sent to applicants, schools, training programs, and stakeholders regarding the deadline extension, and the Board's website was also updated.

Additionally, Ms. Lally thanked the Board's Consumer Information Unit for the many communications during the State of Emergency.

Ms. Lally concluded with a personal update. Ms. Lally has accepted the Governor's appointment as a Chief Deputy Director at the DCA. Ms. Lally expressed gratitude to the Board members and staff.

Ms. Pines asked for any questions or comments from Board Members on the report.

Dr. Gnanadev had a question regarding the decrease in licenses issued from the first quarter to the third quarter during fiscal year 2019-20. Ms. Lally explained the decrease has occurred due to licensees shifting to postgraduate training licenses.

Dr. Thorp thanked Ms. Lally for her hard work.

Mr. Watkins thanked Ms. Lally for doing an outstanding job during COVID-19 and wished her luck. Mr. Watkins asked what the Board's response is to the budget and COVID-19.

Ms. Lally commented that the Board has been spending within their budget, and that statewide there may be budget changes in the future. Ms. Lally commented that at this time the Board will continue to watch spending.

Dr. Lewis thanked Ms. Lally for her work. Dr. Lewis asked if staff salaries for new hires were protected at the moment.

Ms. Lally replied that a recent budget letter asked departments to be mindful of their spending and that guidance has been given to continue with essential hiring, which the Board is moving forward with filling the vacant executive positions. Ms. Lally commented that as the state's fiscal forecast begins to take shape, there could be changes in the future.

Dr. Lewis reiterated that the vacant executive positions are important positions to fill.

Dr. Yip congratulated Ms. Simoes and Ms. Lally in their new positions. Dr. Yip commented that he was very comfortable working with Ms. Jones, Chief of Enforcement.

Dr. Krauss acknowledged that Ms. Lally, along with other staff, are moving up in DCA and reminds us of the incredible job they are doing. Dr. Krauss looks forward to continued work with Ms. Lally within DCA.

Ms. Pines asked if there were any additional questions or comments from the Board. Hearing none, Ms. Pines ask for public comments.

Ms. Rhee suggested that we turn to underrepresented patients in our society rather than data of non-colored patients when administering COVID-19 tests due to differing signs and symptoms. Ms. Rhee commented that physicians on the Board should step down if they do not understand or respect black health.

Mr. Andrist shared his thoughts on Ms. Jones, Ms. Lally, and the Board staff with regard to poor performance and complaints.

Ms. Hollingsworth had a question about the number of days it takes for a complaint to be resolved, as listed in the enforcement report. Ms. Hollingsworth would like to know why it takes so long for a complaint to be resolved and requested an answer at a future Board meeting.

## **Agenda Item 7      Presentation and Possible Action on Recommendations from the Special Faculty Permit Review Committee**

Dr. GnanaDev began the presentation letting us know that at the March 25, 2020 Special Faculty Permit Review Committee's (SFPRC) meeting, an application was reviewed for a special faculty permit from the University of California, San Francisco for Dr. Friedrichsdorf. Dr. GnanaDev outlined Dr. Friedrichsdorf's experience and gave a brief description of accomplishments. If approved for a special faculty permit, Dr. Friedrichsdorf would hold a full-time faculty position as Professor of Pediatrics. Dr. GnanaDev said that the SFPRC recommends that the Board approve Dr. Friedrichsdorf's application for a special faculty permit. Concluding this presentation, Dr. GnanaDev asked if there were any questions from the Board. There were none.

***Dr. Lewis moved/S: Dr. Krauss***

Ms. Pines asked for public comments.

Ms. Rhee commented that the applicant sounds impressive academically and experience-wise but voiced concern over the lack of mentioning any experience treating patients in a diversified population.

Ms. Pines asked Ms. Cruz Jones to take the roll.

***Motion carried 12-0***

Dr. GnanaDev continued the presentation with another application from the March 25, 2020 (SFPRC) meeting for a special faculty permit from the Loma Linda University for Dr. Singh. Dr. GnanaDev again outlined experience and gave a brief description of accomplishments for Dr. Singh. If approved for a special faculty permit, Dr. Singh would hold a full-time faculty position as professor in the Department of Pediatrics and as an attending physician for the Neonatology Division. Dr. GnanaDev said that the SFPRC recommends that the Board approve Dr. Singh's application for a special faculty permit. Concluding this presentation, Dr. GnanaDev asked if there were any questions from the Board. There were none.

**Dr. GnanaDev moved/S: Dr. Thorp**

Ms. Pines asked for public comments. There were none.

Ms. Pines asked Ms. Cruz Jones to take the roll.

***Motion carried 12-0***

**Agenda Item 8      Update, Discussion, and Possible Action on Recommendations from the Midwifery Advisory Council Meeting**

Ms. Lally advised that Ms. Holzer was scheduled to present agenda item eight, however, Ms. Holzer was unable to attend the Board Meeting. With Ms. Holzer's permission, Ms. Lally will present agenda item eight on Ms. Holzer's behalf. Ms. Lally reviewed the agenda items to be considered for approval for the next Midwifery Advisory Council (MAC) meeting on August 20, 2020, including goals for the MAC, updates on legislation, report from the Task Force and discussion regarding the data collected on the Licensed Midwife Annual Report, report from the Task Force on Medi-Cal related issues, discussion on revisions to the Practice Guidelines for California Licensed Midwives, selecting a new member to the MAC, and discussion on expanding the scope of practice for midwives to include one year of postpartum care.

Ms. Pines asked for a motion to approve the agenda items.

**Dr. Hawkins moved/S: Dr. Lewis**

Ms. Pines asked if the Board members had any questions. Hearing none, Ms. Pines asked for public comments. There were none.

Ms. Pines asked Ms. Cruz Jones to take the roll.



***Motion carried 12-0***

**Agenda Item 9A Discussion and Possible Action on Legislation/Regulations**

Ms. Lally introduced Assembly Bill (AB) 890, Wood. Ms. Lally stated that the Board voted to oppose this bill at the May 2019 Board meeting and the bill was amended January 23, 2020. Ms. Lally continued that AB 890 would authorize nurse practitioners to practice without physician supervision if the nurse practitioner meets specified education, examination, and training requirements.

Ms. Lally reviewed the details and analysis of AB 890. Ms. Lally stated that, in the past, the Board has opposed bills that remove physician supervision for nurse practitioners, however, this bill includes more oversight mechanisms. Ms. Lally explained that the author wrote this bill with the intent of increasing coverage, access, and affordability of healthcare for Californians as we see a shortage of primary care physicians.

Ms. Pines asked for discussion and what the Board's position is on the bill. Ms. Lally responded that the Board's current position is opposed, but amendments have since been made, leaving Board discussion open.

Dr. Hawkins asked how this practice will help out the community rather than in the hospital setting.

Dr. Thorp also stated that more primary care is needed in the community and questioned if this bill addresses that need. Dr. Thorp commented on the financial and economical aspect of becoming a general nurse practitioner versus going into a specialty, and that although this bill will decrease the supervision from physicians, he's not sure it will solve the problem of access to care. Dr. Thorp stated he would speak against the Board having a position on this bill.

Dr. Krauss commented that he has mixed feelings about expanding scope of practice and independent practice. Dr. Krauss mentioned the Board's mission and how it relates to expanding access to high quality of care, emphasizing that nurse practitioners need to demonstrate their quality of care would be equivalent to a primary care physician. Dr. Krauss stated he wasn't sure if safeguards would be in place even though a new board would be created under this bill. Dr. Krauss expressed his concern for the protection of consumers, referencing California's bar against physicians in a corporate practice and questioned a corporate employer's influence on a nurse practitioner. Dr. Krauss commented that any independent practice bill would also need to have the same bar against the corporate practice of medicine. Dr. Krauss stated he is in favor of the Board maintaining their opposition on this bill.

Ms. Webb stated that this bill does impose a bar to the corporate practice of medicine.

Ms. Pines asked about the general practice issue that was brought up.

Ms. Webb commented that Dr. Thorp made a good point that the bill removes supervision requirements if nurse practitioners meet the specified requirements, but it does not require them to practice in a particular specialty. Ms. Webb continued that the idea is to increase access to primary care, especially in underserved communities, but there is not a requirement that nurse practitioners practice in a particular specialty or in underserved communities. Ms. Webb continued that there is still a draw to go into specialty practice where the pay may be better.

Dr. Lewis agreed that scope of practice bills are usually opposed by the Board, stating that once the Board allows scope of practice bills to bend, the crease may get further. Dr. Lewis also suggested the Board stick with their previous recommendations in opposing this bill.

Ms. Pines asked if there were any other members who would like to comment.

Dr. Thorp commented that if Assembly Member Wood would be willing to include wording in the bill to encourage independent practitioners to become primary care practitioners in underserved areas, then he could be supportive of the bill. Dr. Thorp reiterated that he doesn't feel this bill will solve the primary care deficit and is concerned this bill would decrease the quality of care given as it is currently written.

Dr. Lewis commented that the Union of American Physicians had previously approached Assembly Member Wood and that Mr. Wood was not interested in making amendments to this bill with regard to focusing on underserved areas.

Ms. Pines asked if there were any other discussion from members.

**Dr. Lewis moved to oppose AB 890, Wood/S: Dr. Krauss**

Ms. Pines asked if there were public comments. There were none.

Ms. Pines asked Ms. Cruz Jones to take the roll.

***Motion carried 12-0 (Oppose)***

Ms. Lally introduced Assembly Bill (AB) 2239, Maienschein. Ms. Lally explained that this bill would allow psychiatric trainees to qualify for the Steven M. Thompson Physician Corps Loan Repayment Program if they choose to practice in a county-operated mental health delivery system. Ms. Lally explained that this bill would raise the \$1,000,000 cap on funds flowing into the program to \$2,000,000. Ms. Lally explained that the author wrote this bill to address the shortage of qualified mental health professionals by increasing the cap of the Steven M. Thompson Loan Repayment Fund.

Ms. Lally reviewed the analysis of AB 2239. Ms. Lally stated that Board staff recommends the Board take a support position on this bill and asked for a motion.

**Dr. GnanaDev moved to support AB 2239, Maienschein/S: Dr. Hawkins**

Ms. Pines asked if there were any questions or comments from the Board.

Dr. GnanaDev commented that he thinks this is a wonderful idea because mental health is getting worse.

Ms. Pines asked if there were public comments.

Ms. Rhee stated this is a wonderful idea to have a greater diversified training and briefly shared an experience she had with a mental health physician.

Ms. Pines asked Ms. Cruz Jones to take the roll.

***Motion carried 12-0 (Support)***

Ms. Lally introduced Assembly Bill (AB) 2273, Bloom. Ms. Lally explained that AB 2273 would authorize a special faculty permit (SFP) holder to practice medicine at an approved academic medical centers that train more than 250 residents. Ms. Lally went on to explain that current law only approves medical schools to participate in Business and Professions Code Sections 2168, 2113, and 2111, which limits the flexibility of independent academic medical centers to appoint foreign trained physicians without seeking the support of a medical school.

Ms. Lally continued to review the details and analysis of the AB 2273. Ms. Lally stated that the Board does not currently approve academic medical centers, and if approved, the Board would need to adopt parameters of what would be required for approval. Ms. Lally further stated that the Board does not have expertise in approving hospitals and would have to contract with an outside subject matter expert. Ms. Lally explained that, currently, SFP's are intended for medical education institutions and affiliates and would be reviewed by the Board's Special Faculty Review Committee.

Dr. Krauss commented when the SFP process began in California, it created education and research expansion opportunities, which was the goal. However, it seems that now medical schools have become competitors in the practice of medicine, stating that buying private medical practices have been responsible for some of the inflation of healthcare costs. Dr. Krauss stated that he supports education and research, but SFP's have been used for clinical activity which gives university medical centers a competitive edge. Dr. Krauss also stated that, in protecting consumers, if SFP's have improved quality of care, then we should support the expansions. Dr. Krauss wondered if there should be some expanded requirements to practice under SFP's. Dr. Krauss does not know what position he would recommend on this bill and would like to see a report on how SFP's have improved access to care for Californians.

Dr. GnanaDev agreed with Dr. Krauss in that SFP's were created for research and education and the majority of SFP's are now used for clinical care. Dr. GnanaDev commented that he feels a lot of the SFP's granted have added value to California but also feels the medical schools have become too competitive, making it difficult for non-medical school academic centers to have the ability to recruit. Dr. GnanaDev stated he supports this bill but with amendments added.

Dr. Thorp questioned the cost to the Board with this bill. Dr. Thorp stated he would be willing to support this bill without adding additional costs to the Board.

Mr. Watkins commented that his concern with this bill is that there is no input if something happens and the Board wouldn't have the ability to protect taxpayers. Mr. Watkins questioned hospitals protecting the public like the Board protects the public. Mr. Watkins stated he would oppose this bill.

Dr. GnanaDev replied that hospitals would be held liable to the Board, just as they are now.

Mr. Watkins commented that his concern is the difference in liability and public protection with medical schools versus private hospitals.

Dr. GnanaDev replied that he does not have a problem with supporting this for not-for-profit institutions rather than for-profit academic centers.

Ms. Pines commented that her concerns are what the costs would be to the Board. Ms. Pines stated she does not think anything should be approved that would increase the budget. Ms. Pines also commented that any amendments made would have to include that the facility is directly responsible.

Ms. Webb suggested that, if amendments are made, the Board ask for a delayed implementation to allow time for regulations to be developed.

Ms. Pines commented that the Board should oppose so that the Board can evaluate the program and the impact the practitioners have had on California.

Dr. Krauss commented that the bill may be delayed in committee.

**Dr. Thorp moved to oppose AB 2273, Bloom/S: Mr. Watkins**

Ms. Pines asked if there was any other discussion from the Board.

Dr. GnanaDev asked if it was opposed unless amended.

Ms. Pines asked Dr. Thorp if he was going to put forth a response of opposed unless amended.

Dr. Thorp responded that his current position is opposed as it would be reckless to add costs to the Board that is not understood at this point. Mr. Thorp commented that he would be willing to look at the bill again if it were brought back with satisfactory amendments, but the amendments should not come from the Board. Dr. Thorp reiterated that his motion today oppose.

Ms. Pines asked if there were any additional comments.

Dr. Krauss asked who would write the amendments if the motion is opposed pending amendments.

Ms. Pines stated the motion is oppose.

Dr. Krauss commented that he will oppose and come back to it with any changes from the author.

Ms. Pines asked if there were public comments.

Ms. Rhee commented that she was concerned about a Board member appearing confused and wondered if now is the right time to vote.

Ms. Pines asked Ms. Cruz Jones to take the roll.

***Motion carried 12-0 (Oppose)***

Ms. Lally introduced Assembly Bill (AB) 2478, Carrillo. Ms. Lally explained that AB 2478 will require the Board to conduct a study by January 1, 2022, regarding expanding the pool of international medical graduates (IMG). Ms. Lally detailed what would be included in, and the goals of, the study.

Ms. Lally explained that Board staff has concerns about this bill, as the Board does not have expertise in the area requested for the study, and would therefore need to contract with an outside entity. Ms. Lally commented that this bill will have significant costs to the Board and Board staff is recommending the Board take an opposed position on the bill.

Ms. Lally asked for a motion.

**Dr. Krauss moved to oppose AB 2478, Carrillo/S: Mr. Watkins**

Ms. Pines asked for questions or comments from the Board.

Dr. Hawkins commented on the current shortage of residency space in California, which would be something to consider if someone wanted this bill to be enacted.

Ms. Pines asked for public comments.

Ms. Rhee commented that she encourages the Board to not support this bill. Ms. Rhee also expressed concern about international graduates coming to underserved areas without being bilingual, stating African American patients may be marginalized by IMG's who speak only one language.

Ms. Pines asked Ms. Cruz Jones to take the roll.

***Motion carried 12-0 (Oppose)***

Ms. Lally introduced Senate Bill (SB) 1237, Dodd. Ms. Lally explained that SB 1237 would delete the condition that a certified nurse-midwife (CNM) practice under the permission of a physician and surgeon. Ms. Lally continued that SB 1237 would allow CNMs to attend cases of normal pregnancy and childbirth and to provide prenatal, intrapartum, and postpartum care, including gynecologic and family planning services, interconception care, and immediate care

for the newborn, consistent with standards adopted by a national professional organization, as approved by the Board.

Ms. Lally continued with reviewing the analysis and details of SB 1237, stating the bill would make it a misdemeanor for a CNM to refer a person for specified laboratory and diagnostic testing, home infusion therapy, and imaging goods or services if the CNM, or other immediate family, has a financial interest in the referral. Ms. Lally explained SB 1237 prohibits CNM from attending a pregnancy and birth in an out-of-hospital setting if there is a pre-existing maternal disease or a condition creating risks higher than that of a low-risk pregnancy or birth.

Ms. Lally went on to explain that this bill does not address the issue of allowing CNMs to perform out-of-hospital vaginal births after a cesarean section without a physician consult and approval.

Ms. Pines asked the Board for comments or questions.

Dr. Thorp commented that the bill supports a team environment but at the same time wants to get rid of supervision. Dr. Thorp commented that he does not quite understand the point of the bill, other than wanting to be released from supervision.

Ms. Webb explained that the physician supervision is a barrier to home births.

Dr. GnanaDev asked what the CNM can do that the licensed midwives not under the Board cannot do.

Ms. Webb commented that CNMs practice more in hospitals whereas licensed midwives practice more in homes and birthing centers.

Ms. Pines asked if the bill is stating a CNM can deliver a baby at a patient's home.

Ms. Webb confirmed that that was included.

Ms. Pines commented that, after reviewing letters regarding the bill, the letter-writers had concern about not being able to give birth at home. Ms. Pines asked for clarification.

Ms. Webb commented that concern may be the patient's ability to make their own decision to give birth at home with a CNM, despite the risk.

Ms. Lewis stated they would still have the same problem in that obstetricians are not willing to partner with them as there is a liability issue. Dr. Lewis asked if this was still true.

Dr. Thorp commented that CNM are trained nurses and have, in the past, worked as a team with an obstetrician. Dr. Thorp continued that it seems there is enough demand for home births that CNMs now want to step into what license midwives are doing, who don't typically work in a hospital setting and are not nurses. Dr. Thorp shared the issues of CNMs wanting the flexibility to deliver at home but having trouble partnering with obstetricians due to risk of liability. Dr. Thorp stated another issue may be revenue and wanting to keep it as it may be going elsewhere.

Ms. Lubiano commented that she agrees with Dr. Thorp. Ms. Lubiano shared her concern with the list of conditions that would apply to CNM to perform out-of-hospital births, as they seem vague. Ms. Lubiano also shared that a consequence of their vote is that a certain population of women could potentially lose their autonomy.

Ms. Pines asked if there were any other comments. Hearing none, Ms. Pines asked for a motion.

**Dr. Thorp moved to oppose SB 1237, Dodd/S: Dr. Lewis**

Ms. Pines asked if there was any further discussion from members. There were none. Ms. Pines asked for public comments.

Ms. Maloof-Bury commented that she is a CNMs in Sacramento who recently moved from southern California, where nurse midwives were not allowed to practice in or out of hospitals in most locations. Ms. Maloof-Bury explained that it's not that CNM want to expand their practice to out of hospitals, it's simply that they want to work. Ms. Maloof-Bury commented on the barriers that CNMs face to be able to work.

Ms. Smith commented that she would be happy to be used as a resource or answer any questions, as she has previously worked on related bills. Ms. Smith urged the Board to support this bill, calling it extremely reasonable. Ms. Smith commented that California has a critical access problem and a shortage of obstetrician providers. Ms. Smith also commented that she believes the Board has misconceptions about the bill and does not fully understand it. Ms. Smith continued to explain the bill and her support of the bill, citing support from national and international organizations.

Ms. Lambert commented that she echoes Ms. Smith. Ms. Lambert outlined her education and experience and expressed her support for this bill. Ms. Smith stated that in Napa County, where she resides, there is no longer a hospital that provides midwifery care. Ms. Lambert commented that they are licensed and allowed to practice in homes, hospitals, and birthing centers, stating the burden of supervision acts as a barrier to their legal, licensed, and educated right for midwives to practice their profession.

Dr. Brown expressed her support of SB 1237. Dr. Brown explained that she is a Board certified OBGYN who was trained by CNMs. Dr. Brown commented that she does not agree with CNMs needing physician supervision to practice. Dr. Brown explained that she is proud of the strides California has taken in many areas of health care, but thinks California is behind in nurse midwife practice. Dr. Brown asked the Board to support this bill.

Dr. Rubashkin commented that he was trained by, and has worked with, nurse midwives, where he gained a lot of insight and knowledge. Dr. Rubashkin also commented that California's regulations on this topic does not align with many other states, nor do they align with other countries. Dr. Rubashkin agreed with other public comments that were made in support of this bill. Dr. Rubashkin asked the Board to support SB 1237.

Ms. Noble commented that this bill aims to improve access and options of CNMs and birthing families. Ms. Noble also commented that CNMs have their hands tied, as compared to licensed midwives, which does not coincide with many other states in this country.

Ms. Donnelly spoke for the training that CNMs receive and stated that it is their aim to increase access for midwives to be able to provide an integrated model of care. Ms. Donnelly stated that physician supervision requirements concentrate nurse midwives in geographic areas where physicians are physically practicing, which reduces access to care. Ms. Donnelly commented on the lack of OBGYN's in California, and removing physician supervision is critical to address the maternal care shortage. Ms. Donnelly outlined a report showing black women identified increase access to midwifery care as one of the key interventions to solving the black women and infant mortality and morbidity rate in California. Ms. Donnelly requested to bring California in line with a majority of other states in the nation.

Ms. Rhee commented she does not think being a black patient advocate has any kind of effect on the Board members' votes and feels it is hopeless advocating for black patient health.

Ms. Gibson agreed with the other public comments and added that she supports this bill, stating more midwives in the hospital is good for public health and is to everyone's benefit.

Ms. Johnson typed her comment in, as there were audio issues. The comment was in favor of SB 1237.

Ms. Pines asked for the Board for additional thoughts or comments.

Dr. GnanaDev commented that there was no opposition from public comments and is not sure why the Board would oppose this bill.

Dr. Thorp stated that after hearing all of the public comments, he would withdrawal his motion if the second was willing to withdrawal.

Ms. Pines asked if the second was willing to withdrawal.

Dr. Lewis withdrew his second.

Ms. Pines asked for a new motion.

**Dr. Hawkins moved to support SB 1237, Dodd/S: Dr. Thorp**

Ms. Pines asked Dr. Hawkins if he wanted to add an addendum to the language.

Dr. Hawkins replied that he does not want to add an addendum, he was just impressed with the public comments received.

Ms. Pines asked Ms. Cruz Jones to take the roll.

***Motion carried 12-0 (Support)***



## **Agenda Item 9B Regulatory Actions**

Ms. Lally stated this item explains the status of the rulemaking packages in progress and is an update only, no action is required by the Board. Ms. Lally asked if there were any questions on the regulations matrix.

Dr. Thorp asked what the timeline was for the Physician and Surgeon Health and Wellness Program to be reviewed by DCA.

Ms. Webb responded that she is working on amendments to the language.

Ms. Pines asked if there were public comments.

Mr. Andrist asked why Ms. Webb was vague in answering Dr. Thorp's question.

## **Agenda Item 10 Future Agenda Items**

Dr. Krauss requested a Special Faculty Permit presentation to discuss improving education and research in medical schools and what the benefit has been to the consumers along with any recommendations going forward.

Ms. Lubiano requested a telehealth update in light of the pandemic.

Ms. Pines asked for public comments.

Mr. Andrist requested an investigation into a Board member's competency.

Ms. Rhee agreed with Mr. Andrist's comment. Ms. Rhee expressed interest in African American patient advocate groups to present at meetings.

**Ms. Pines adjourned the meeting at 6:10 p.m.**

<u>Signature on File</u>	<u>8/13/2020</u>
Denise Pines, President	Date

<u>Signature on File</u>	<u>8/13/2020</u>
Dr. Krauss, M.D., Secretary	Date

<u>Signature on File</u>	<u>8/13/2020</u>
William Prasifka, Executive Director	Date