

COVERED CALIFORNIA BOARD MINUTES
Thursday, November 21, 2019
Covered California Tahoe Auditorium
1601 Exposition Blvd.
Sacramento, CA 95815

Agenda Item I: Call to Order, Roll Call, and Welcome

Chairman Mark Ghaly called the meeting to order at 10:20 a.m.

Board Members Present During Roll Call:

Jerry Fleming
Dr. Sandra Hernandez
Art Torres
Paul Fearer
Mark Ghaly

Agenda Item II: Closed Session

A conflict disclosure was performed and there were no conflicts from the Board members that needed to be disclosed. The Board adjourned into closed session to discuss personnel, contracting and litigation matters pursuant to Government Code Sections 100500(j), 11126(a), 11126(e)(1), and 11126.3(d).

Vice Chairman Paul Fearer called open session to order at 12:32 p.m. Vice Chairman Fearer stated that Chairman Mark Ghaly was present for the majority of closed session. Chairman Ghaly left closed session for a meeting in the Governor's office but would return around 2:00 p.m.

Agenda Item III: Approval of Board Meeting Minutes

Presentation: September 19, 2019 Meeting Minutes

Discussion: None

Motion/Action: Mr. Fleming moved to approve the September 19, 2019 Meeting Minutes. The motion was seconded by Dr. Hernandez.

Public Comment: None

Vote: Roll was called. The motion was approved by a unanimous vote of those present.

Agenda Item IV: Executive Director's Report

Peter V. Lee, Executive Director, acknowledged the passing of Bernard J. Tyson. Bernard was the CEO of Kaiser Permanente Healthcare and Hospitals. Mr. Lee

dedicated two reports, to be presented later in the meeting, to the memory of Bernard J. Tyson.

Announcement of Closed Session Actions

Retirement of Dora Mejia, Covered California's Chief Financial Officer (CFO)

Mr. Lee announced the retirement of Dora Mejia, Chief Financial Officer. Ms. Mejia worked for the state since 1988. She joined Covered California in 2013 and became the CFO in 2017. Mr. Lee commended Ms. Mejia's exceptional service and leadership.

Appointment of Jim Watkins, Covered California's New Chief Financial Officer

Mr. Lee announced the appointment of Jim Watkins as Covered California's new Chief Financial Officer. Mr. Watkins worked for the Department of Health Care Services for twenty-six years, most recently as the Chief of Research and Analytic Studies. Mr. Lee welcomed Mr. Watkins to Covered California. Mr. Watkins will begin his role as CFO on December 1, 2019.

Executive Director's Update

Mr. Lee reviewed the agenda, noting that a new section titled Covered California Data and Research will be included in all future Board meeting agendas. Mr. Lee also noted that staff will provide highlights of the preliminary Covered California experience report on improving the quality of care and delivery system reform. The report itself will be published the week of November 25th.

Discussion: Press and Media / Reports and Research

Mr. Lee called attention to a Covered California press release announcing that for 2020, Covered California for Small Business will have the lowest premium increase in history (four-point-one percent). Also, Oscar Health Plan will join the Los Angeles and Orange County markets.

Mr. Lee called out the report by the UC Berkeley Labor Center titled *California's Steps to Expand Health Coverage and Improve Affordability: Who Gains and Who Will be Uninsured?* Mr. Lee noted the findings match what Covered California projected in terms of the dollar value of subsidies to the people in the 400 to 600 percent of the federal poverty level range. On average, these consumers receive about \$500 per household.

Mr. Lee called out the report by Health Affairs titled *A Consumer-Centric Approach to Network Adequacy: Access to Four Specialties in California's Marketplace*. Mr. Lee said this is a very good report showing that the marketplace in California has somewhat narrower networks than in the broad commercial market.

Mr. Lee called out the report sponsored by the California Health Care Foundation titled *The Sky's the Limit: Health Care Prices and Market Consolidation in California*. The work was done by Richard Scheffler and his team. The report shows a clear association between concentration and higher prices. It also shows that California is the seventh

most expensive state in the nation in terms of underlying costs. Finally, the report stated a significant drop in Covered California's individual market premiums; thirteen percent above the national average in 2015 to six percent under the national average in 2018.

Mr. Lee said three reports from California Budget and Policy Center, UCLA, and the Center for Disease Control all state that nationally, uninsurance rates are rising. In California, rates are plateauing. The rate of uninsured continues to drop year-over-year.

Mr. Lee called out the report by the California Health Care Foundation titled *2019 Edition – Health Disparities by Race and Ethnicity*. Mr. Lee stated this is an important frame of reference in looking at health care disparity issues.

Mr. Lee called out the report by the Urban Institute and Robert Wood Johnson Foundation titled *States Seek Greater Control, Cost-Savings by Converting to State-Based Marketplaces*.

Mr. Lee called out the report by the California Health Care Foundation titled *A Close Look at Medi-Cal Managed Care: Statewide Quality Trends from the Last Decade*, which looks at Medi-Cal managed care over the last decade.

Mr. Lee noted there are multiple reports looking at the employer market. He recognized that while Covered California works in the individual market, half of Californians have employer-based coverage. A report from Kaiser Family Foundation published in Health Affairs detailed worker contributions for employer-based coverage for a family of four is now over \$20,000. A report from Commonwealth Fund said that of this \$20,000, \$5,400 comes directly from the employee's pocket.

Discussion: Status Update on Open Enrollment 2020

Mr. Lee stated open enrollment began October 15, 2019. Open enrollment is scheduled to go through January 31, 2020. Covered California's next open enrollment period will run November 1, 2020 through January 31, 2021.

Mr. Lee reported that Covered California is focusing open enrollment efforts on uninsured and subsidy-eligible individuals. Attention is focused on individuals earning up to 600 percent of the federal poverty level, Hispanic and Asian communities, non-English speakers, African Americans, and LGBTQ consumers.

The primary message is affordability. Over one million Californians are eligible for the state subsidy. Many of these are also eligible for the federal subsidy. About 150,000 Californians who previously did not qualify for a federal subsidy, will now qualify for the new state subsidy. The secondary message reminds Californians that health insurance coverage is required in California. Those without coverage will pay a penalty to the Franchise Tax Board.

Marketing includes, digital ads, print ads, radio, and television. Mr. Lee played one of the new ads. There was a question regarding advertisements for the visually impaired. Colleen Stevens, Director of Marketing at Covered California, said there were ads with voice-over dialog. She said she would look into the current advertisements and provide a more detailed answer in the future.

Mr. Lee said the kickoff for open enrollment included a Los Angeles event featuring Laila Ali, daughter of Muhammad Ali, and Leo Santa Cruz. These world champion boxers have large social media followings. Both boxers have family who suffered with serious health conditions. They are helping Covered California spread the message of the importance of health coverage.

Mr. Lee promoted Covered California at the national Hot Rod Association finals in Pomona. He played a video clip from the event. Seventy thousand people attended the event over a four-day period.

Covered California Data and Research

Mr. Lee reiterated that Covered California regularly posts quarterly snapshots of enrollment by issuer, geography, and demographics through its Active Member Profiles. He added that the California Health Care Foundation recently released an interactive visualization of this data. Mr. Lee thanked Dr. Hernandez and her team at the California Health Care Foundation for taking Covered California data and putting it together in this brilliant display.

State and Federal Policy/Legislative Update

Discussion: State Legislation

Kelly Green, Director of External Affairs presented a slide on current bills that impact Covered California and its consumers. She reported that AB 1309, AB 929, SB 260, AB 174, and AB 5 have all been signed into law by Governor Newsom.

Peter V. Lee highlighted SB 260 which was sponsored by Health Access and Western Center. This bill provides provisions around auto enrollment. It encourages carrier auto-enrollment from Medi-Cal into Covered California. Mr. Lee said this has very big implications in thinking about moving to a nation of 100% coverage.

Board Comment: Dr. Hernandez asked if this came with budgetary authority. She asked how this very complex and very important transition will be financed.

Ms. Green stated that it did not include funding for Covered California. The current understanding is that Covered California would implement using existing resources and work closely with the Department of Health Care Services and stakeholders.

Board Comment: Dr. Hernandez asked if associated costs have been calculated.

Peter V. Lee said the calculations have begun. He noted there is no new money for new subsidies. An individual coming from Medi-Cal and who is eligible for a subsidy, would be auto-enrolled in the “best plan for them” with the existing federal and/or state subsidies available to them. The cost of implementation will be absorbed into Covered California’s own budget but it will not be huge. The benefit is that these subsidies will likely be enough to encourage individuals to keep their coverage.

Board Comment: Dr. Hernandez stated the technical aspects will require building this into the Covered California budget.

Peter V. Lee agreed and stated he does not anticipate seeking additional funds from the general fund for the IT design and build. The cost will be discussed during budget approvals.

Ms. Green thanked the sponsors and authors of the bill and thanked them for the later start date of July 2021 (rather than January 2021) given the complexities of the bill and Covered California’s transition to a new IT vendor.

Ms. Green highlighted that AB 5 has been signed by the Governor. This bill defines certain classes of independent contractors as employees using a three-part test. There are a variety of exceptions identified in the bill and the bill goes into effect in 2020 for some classes of employees and has a later effective date for other classes. Covered California is evaluating the bill and assessing its possible impact on enrollment.

Ms. Green said that on October 29, 2019, a coalition of app-based driving and service companies filed the “Protect App-Based Drivers and Services Act,” a proposed ballot initiative which aims to allow app-based drivers to be classified as independent contractors, in line with specified requirements. The proposed ballot initiative would require app-based driving and services companies to provide a quarterly health care stipend toward health coverage premiums. Additionally, it would require Covered California to annually publish the average statewide monthly premium for a Bronze plan, and authorize Covered California to adopt or amend regulations needed to permit app-based drivers to enroll in Covered California. If qualified, the proposed initiative would appear on the ballot in November 2020. Covered California is reviewing the language to better understand what it means and how it might affect them.

Board Comment: Mr. Torres said this is a dangerous initiative that takes away the rights of workers. He asked if Covered California was contacted by the coalition prior to their inclusion in the ballot initiative language.

Ms. Green said that Covered California was not contacted prior to the filing of the initiative and Covered California does not take positions.

Board Comment: Mr. Torres stated that by including Covered California in the initiative, the coalition is in effect taking a position for Covered California. He said this is abhorrent.

Ms. Green said that Covered California's analysis of the initiative is key. Covered California will develop technical assistance to inform on the impacts as they relate to Covered California or the health care provisions.

Board Comment: Dr. Hernandez asked if the size of the population is known?

Ms. Green stated that the size is not currently known. Through analysis, Covered California is trying to gain a better understanding of the size of the potential population.

Board Comment: Mr. Torres again expressed concern regarding Covered California being named in the initiative.

Peter V. Lee stressed that Covered California is not in any way associated. Mr. Lee noted Mr. Torres' concern regarding the implied (although incorrect) endorsement. Mr. Lee stated that Covered California will be sure to engage with leadership from the labor community to make it clear that Covered California is not in any way endorsing or associated with the initiative.

Discussion: Federal Policy

Ms. Green stated that Covered California provided comments on a presidential proclamation that was issued in October. The proclamation would suspend entry of immigrants into the US unless they provide proof of health insurance within thirty days of entry or have resources to pay for reasonably foreseeable health insurance costs. The proclamation runs counter to work done in California to expand coverage, including lawfully present immigrants. Ms. Green explained how this creates a catch 22 in that applicants must show proof of state residency and lawful presence to obtain coverage. This proclamation also affects the risk mix. Lawfully present immigrants in California generally present a favorable health insurance risk. Also of concern, subsidized marketplace coverage would not qualify as approved coverage, but under this proclamation, short-term insurance would. In California, the law precludes the sale of short-term plans. Outside of California, immigrants could be driven away from comprehensive coverage to short-term plans. A full preliminary injunction was scheduled for November 22nd. The California Attorney General filed an amicus brief supporting the motion for preliminary injunction. A copy is available in the Board materials.

Mr. Lee thanked Ms. Green for the quick turn-around on Covered California's comments given the extremely short comment period of just two days.

Public Comment:

Jen Flory, Western Center on Law and Poverty, commented on the funding for SB 260. She stated that as part of the CalHEERS system, it is actually eligible for federal funds at the enhanced rate of ninety percent for most of those charges. There is a cost to Covered California but she stated that the higher the enrollment, the more funds are available to Covered California. The majority of this would be paid for by the federal government. Ms. Flory thanked the staff for their technical assistance. She thanked Covered California for their comments regarding the presidential proclamation and agreed that the two-day comment period was ridiculous.

Beth Capell, Health Access California echoed Ms. Flory's comments and noted that most of the bills signed by Governor Newsom were sponsored or co-sponsored by Health Access California. She stated her appreciations to Covered California for their technical assistance while working on the measures. Ms. Capell said that unlike Covered California, Health Access does take positions on initiatives. Regarding the Protect App-Based Drivers and Services Act, Ms. Capell said the initiative is very misleading. Ms. Capell said Health Access California is proud to show their opposition to this ballot initiative early. Regarding the presidential proclamation on immigrant health policy, Ms. Capell said they appreciate Covered California's comments and were appalled by the two-day comment period.

Cary Sanders, California Pan-Ethnic Health Network expressed her gratitude for Covered California's comments on the presidential proclamation on immigrant health policy, particularly with the quick turn-around time. She stated how important Covered California's voice is for other stakeholders and the importance of having Covered California weigh in at the national level. Ms. Sanders said they look forward to seeing Covered California's analysis on the impact of the proposed ballot initiative.

Doreena Wong, Asian-Americans Advancing Justice, L.A. thanked Covered California for their comments on the presidential proclamation. She also thanked Covered California for issuing notices about public charge and helping to clarify the issue with other state agencies. She praised Covered California for their efforts in encouraging immigrant populations to seek health coverage. She also thanked Covered California for their broad targeting of different segments in advertising and noted that there is still confusion regarding the open enrollment period. She appreciates the various languages and targeting of different communities in advertisements.

Mr. Lee thanked Ms. Wong for her comment and noted that in the last few weeks, Covered California has done media events for Chinese language media and a separate event for Korean language. A Vietnamese language media event was also scheduled.

Agenda Item V: Covered California Policy and Action Items

Action: Potential Disclosure Requirements for Certified Agents Who Sell Non-Regulated Health Products

Terri Convey, Individual and Small Business Outreach and Sales Director noted that in March 2019, Covered California presented to the Board potential requirements for Certified Insurance Agents to obtain disclosure statements from consumers who enroll in non-regulated health products. Further research showed that the only non-regulated health products being sold by Covered California Agents are Health Care Sharing Ministry products. Feedback, surveys, and research suggest that less than twelve percent of Covered California Agents sell Health Care Sharing Ministry products. Draft versions of the disclosure form were shared with the Board in September 2019.

Feedback led to a revision in the draft. New provisions include requiring agents to run a consumer's eligibility for financial assistance or Medi-Cal prior to enrolling them in a Health Care Sharing Ministry and secondly, requiring agents who sell these products to disclose the number of products sold during the past year. The data will be collected during the annual, web-based certification training for agents. In addition to these new provisions, agents will also be required to collect a signed Consumer Acknowledgment and Full Disclosure form, retain the form for three years making it available to Covered California upon request, and attest to their agreement to abide by Covered California's policy regarding these products during their annual, web-based agent recertification training.

Peter V. Lee stated his appreciation to those that provided comments. All the comments were considered in drafting the final recommendation. Mr. Lee noted that eighty-five percent of the agents surveyed did not sell Health Care Sharing Ministry products.

Motion/Action: Mr. Fleming moved for approval. Dr. Hernandez seconded.

Board Comment: Dr. Hernandez noted that the form did not contain HIPAA related constraints. Agents have the option of maintaining the information as a hard or electronic copy. She asked if there was concern regarding what information was on the form and the safety of the information.

Ms. Convey said the agent agreement does address HIPAA compliance for agents. The record retention would follow those requirements.

Phone Comment: Michelle Lilienfeld with the National Health Law Program stated that Health Care Sharing Ministries are not health insurance yet they can give the appearance of traditional insurance. They are not subject to the consumer protections of the Affordable Care Act. Coverage for pre-existing conditions may be limited or excluded. There is no guarantee for consumers. She stated their appreciation for the disclosure and the data collection on Health Care Sharing Ministries. Ms. Lilienfeld also

thanked Covered California for their comments on the Presidential Proclamation on immigrant health policy.

Public Comment: Kevin Knauss, independent health insurance agent, Granite Bay, California, Covered California Certified Agent voiced his concerns regarding the use of this disclosure form. As the product is legal to buy and sell, Mr. Knauss does not believe the product falls under the jurisdiction of a regulated product. Mr. Knauss believes requiring the use of the disclosure is discriminatory.

Jen Flory on behalf of Western Center on Law and Poverty stated that Health Care Sharing Ministries discriminate based on gender, religion, and many other things. She said they appreciate what Covered California has done to make sure individuals seeking actual health coverage will not be misled by these products.

Cary Sanders, California Pan-Ethnic Health Network agreed with Jen Flory and voiced support for the disclosure form.

Doreena Wong, Asian-Americans Advancing Justice L.A. voiced her support for the comments made by Ms. Flory and Ms. Sanders. These additional protections and requirements will help protect consumers.

Faith Borges, California Association of Health Underwriters said they appreciate the consumer protection concerns and they chose not to participate in Health Care Sharing Ministry enrollments. They appreciate the clarification on record retention but feel the proposed policy regarding retention and reporting goes too far by compelling speech and raising consumer privacy concerns. They are also concerned that the new policy may further restrict the pool of agents that choose to participate in Covered California. She suggested removing the requirement that agents provide personally identifiable disclosure forms as part of the Covered California audit process. They also feel it is inappropriate to require agents to disclose enrollment that is outside of Covered California's purview. She requested this requirement be removed.

Beth Capell, Health Access California said they would prefer Health Care Sharing Ministries be outlawed. She believes the privacy concerns stated by others are overstated in the context of the existing law. She stated her appreciation for work and noted that they have had conversations at the national level on this topic. She commended Covered California on their track record on protecting consumer privacy.

Mr. Lee stated that on a legal, economic, and moral basis there is no question as to this falling in Covered California's purview. Covered California is setting the terms upon which Certified Agents decide to work with Covered California on a contractual basis. Mr. Lee thanked Agent Kevin Knauss for his letter to the Board which was included in Board Comments. He stressed the importance of the disclosure in educating consumers on the differences between health insurance and Health Care Sharing Ministry products. Mr. Lee noted that the disclosure forms would not be collected by Covered

California on a regular basis but rather would be held by agents in case of audit by Covered California. Mr. Lee reminded everyone that Covered California deals with a large amount of personally identifiable information (PII).

Board Comment: Dr. Hernandez stated that many, including herself, are not pleased that this is codified in state law. She stated that she has great confidence that Covered California will take due diligence to protect consumer privacy.

Vote: Roll was called. The motion was approved by a unanimous vote of those present.

Action: 2020 State Premium Assistance Program Design Amendment – Proposed Reconciliation Repayment Limits

Katie Ravel, Director of Policy, Eligibility and Research stated the draft proposal for reconciliation of the state subsidy premium assistance was presented to the Board in September 2019.

Legislation was passed in the spring which charged Covered California with setting reconciliation repayment limits. Reconciliation adjusts a consumer's final tax credit at the end of the year compared to what they project when they apply with Covered California. Covered California is proposing the addition of reconciliation limits. A consumer would not be able to claim more on the subsidy side than the gross cost of their premium. Ms. Ravel provided details on the proposal noting where the proposal mirrored federal policy and where it differed. She provided slides with scenarios on how the change would affect consumers. These scenarios were aided by the feedback from the AB 1810 Advisory Group.

There were clarifying changes since the presentation in September. They added definitions of actual and projected income, household and filing states, which all are the components that are used to determine subsidy amount. A formula for state subsidy reconciliation was added. There is good alignment between Covered California and the Franchise Tax Board on implementation.

Mr. Lee said that this policy is California showing the nation a more fair, reasonable, sane way to address cliffs. At its core this is another example of making the Affordable Care Act better. Mr. Lee thanked Ms. Ravel, her team, and the AB 1810 committee for their work.

Motion/Action: Dr. Hernandez moved for approval. Mr. Fleming seconded.

Board Comment: Dr. Hernandez congratulated Ms. Ravel on this work and those involved in bringing it to fruition.

Public Comment:

Beth Capell, Health Access California said they appreciate that \$50,000 to \$70,000 may seem like a lot of income for someone in Montana, but in California it does not. She said they are supportive of the subsidies, the mandate, and the reconciliation.

Jen Flory, on behalf of the Health Consumer Alliance agreed with Ms. Capell. They appreciated the smoothing of the cliff at the end. She appreciated the clarification to the definitions.

Vote: Roll was called. The motion was approved by a unanimous vote of those present.

Action: Tribal Advisory Workgroup Policy Amendment

Mr. Lee explained that once a year, Covered California meets with tribal leaders from across California. There are over 5,000 Alaskan native and Native American tribe members. The advisory group requested a change to the policies. The discussion for this change occurred at the public Tribal Council Advisory meeting. In 2012, the Covered California Board adopted a tribal consultation policy. That policy outlined not only annual meetings, but also an advisory workgroup. That advisory workgroup is subject to Bagley-Keene. A recent amendment to Bagley-Keene requires meetings to take place in person. Tribal representatives found this was not always feasible. In September 2019, the Tribal Advisory Workgroup meeting was cancelled due to a lack of a physical quorum. Tribal representatives would like more flexibility in how the workgroup is structured and conducted including greater allowance for remote participation, reassessment of Workgroup membership, and meeting protocols in order to enhance participation and facilitate better dialogue on policies impacting Tribes and American Indian/Alaska Native enrollees.

To make this possible, the Tribal Consultation has asked the Board to eliminate the Tribal Advisory Workgroup from the 2012 policy. Covered California also proposes to consult with Tribal Advisory Workgroup members and other Tribal representatives to create, for approval by the Executive Director, an updated structure and process for a workgroup that will enhance participation, foster timely meetings and discussions, and allow for timely enactment and flexibility to amend as needed in the future in consultation with Tribal representatives. Approving this action would provide Covered California and Tribal leaders the flexibility needed to establish a more effective workgroup structure that will in turn bolster our government-to-government relationship and consultative process; help generate increasingly productive annual Tribal Consultations; and foster improved engagement on how to best serve American Indian/Alaska Native enrollees.

Board Comment: Mr. Torres questioned why the tribal advisory was restricted from conducting business via telephone conference when his twenty-nine-member California Stem Cell Agency Board is allowed to do so.

Mr. Lee suggested he speak with the Stem Cell Council about this but the Tribal Advisory Workgroup is subject to Bagley Keene and they would like more flexibility.

Board Comment: Dr. Sandra Hernandez asked how many people were in the workgroup.

Mr. Lee stated that sixty people are in the tribal consultation. About twenty-five are in the workgroup. The meetings will still be facilitated by Covered California and they would be publicly noticed, but the meetings would not be anchored to the strict Bagley-Keene rules.

Motion/Action: Dr. Hernandez moved for approval. Mr. Fleming seconded.

Public Comment: None

Vote: Roll was called. The motion was approved by a unanimous vote of those present.

Discussion: Preliminary Covered California Experience Report on Improving the Quality of Care and Delivery System Reform

Peter V. Lee stated the presentation would include an overview of two reports to be released the following week. The first report is an overview of Covered California's progress, over the past five years, in assuring quality, lowering costs, and improving health system performance. The second report is very detailed, over one hundred pages, and covers what Covered California has done relating to the quality and delivery system.

Chairman Ghaly joined open session.

Mr. Lee provided an overview of Covered California's key approaches to improving health system performance, as follows: 1) create an effective consumer-driven marketplace, 2) hold health plans accountable for quality and for advancing reform, 3) align effort to foster system change, 4) use data and evidence to drive continuous improvement.

Next, Mr. Lee shared Covered California's six key observations from the first five years, as follows: 1) costs have been lowered, 2) consumers are satisfied, 3) there is great quality for many consumers and wide variation for others with opportunity for improvement, 4) health disparities are getting the necessary attention, 5) collaboration and alignment are improving care for all Californians, 6) requirements to change delivery are making a difference.

James DeBenedetti, Director of the Plan Management Division, provided an overview of Covered California enrollees' overall rating of health plans, noting that in 2019, ninety-five percent of Covered California enrollees were in plans that were ranked above the fiftieth percentile nationally for enrollee experience related to their health plan. Seventy-

five percent of Covered California enrollees were in plans above the fiftieth percentile nationally for consumer satisfaction with their health plan. No Covered California enrollees were in plans that ranked below the twenty-fifth percentile nationally for any Consumer Assessment of Healthcare Providers & Systems (CAHPS) scores.

Dr. Lance Lang, Covered California's Chief Medical Officer said that of the forty measures that plans report through Healthcare Effectiveness Data and Information Set (HEDIS) and CAHPS, Covered California prioritized thirteen. These measures are examined in detail in the reports but one theme is that integration and coordination work.

Dr. Lang displayed a chart showing significant improvement over time via HEDIS measures of diabetes control.

Mr. Lee clarified that the slide charts focused on the year 2019 but provided a summary over the past five years of performance.

Dr. Lang explained that Covered California requires contracted plans to collect race/ethnicity for its enrollees and assess potential for health disparities across four targeted conditions – diabetes, hypertension, asthma, and depression – across all lines of business, with interventions planned where gaps are identified. Dr. Lang outlined notable progress and early findings.

Dr. Lang showed a slide on the importance of alignment. There have been dramatic improvements in reducing hospital associated infections, c-section rates, and opioid use. Covered California's work with improvement collaboratives such as Smart Care California, California Maternal Quality Care Collaborative (CMQCC), and Cal Hospital Compare has led to major improvements. Covered California's alignment with other stakeholders including DHCS, CalPERS, and large employers, is an important component of improving quality and reducing administrative burden on providers and hospitals.

Mr. DeBenedetti said Covered California has been pushing enrollment, Accountable Care Organizations (ACOs), and integrated delivery systems (IDS). The delivery report suggests that for nearly every metric examined, the integrated delivery systems perform better than the non-integrated delivery system. California has historically high enrollment in health plans based on integrated delivery systems, with thirty-five percent of all enrollment in Kaiser Permanente and Sharp Health Plan. Covered California has pushed other plans to contract with ACOs, which are now serving twenty-five percent of all enrollment in non-IDS plans. Covered California ACO enrollment is more than two times the national average and far higher than the average reported for California.

Implications for the future suggest individualized, equitable care is a big priority for Covered California. Reducing performance variation is important. Covered California is looking at ways to push the delivery system toward a better approach. Finally, Covered

California endeavors to increase alignment and collaborative efforts. Mr. DeBenedetti suggested everyone agrees the current metrics relating to integration of behavior health care and outcomes of behavioral health care treatment are poor. A better, more common approach is needed. A better measure of hospital safety metrics and adverse drug events is needed.

Peter V. Lee reiterated that the full reports would be released the following week. The reports are intended to compliment and supplement the report commissioned from PricewaterhouseCoopers, Health Management Associates (HMA), and a range of stakeholders.

Board Comment:

Dr. Sandra Hernandez complimented the work done on these reports. She suggested all plans set a goal of meeting the National Committee for quality Assurance (NCQA) standards.

Mr. Fleming echoed Dr. Hernandez' statement. Identifying variation allows analysis on performance and characteristics. While a report without variation is preferable, the variation can lead down a beneficial path. Mr. Fleming stressed the importance of the cause of each result. He encouraged everyone to consider what is in the non-integrated world. He questioned if performance failure could be due to a lack of incentive or a question of capability.

Chairman Ghaly said he would also echo the comments made by Dr. Hernandez and Mr. Fleming. He agreed with Dr. Hernandez saying that he looks at these reports and thinks they could set the heartbeat for where California takes care in the public system and as we think about behavioral health, not just as a public system need, but really think about the commercial and the private sector transformation. Chairman Ghaly then reiterated Mr. Fleming's comment on identifying what plans did differently. Chairman Ghaly said the key observations could be summarized as driving towards a different value proposition and value-based care. Chairman Ghaly complemented those involved on the work and the reports.

Beth Capell, Health Access California stated that the nation is currently debating if health insurance adds value. California's quest to lower costs, improve quality, and reduce disparities is, unfortunately, not part of the national discussion. Ms. Capell commended health plans for their efforts but felt some plans are not doing as well as others. Ms. Capell lamented the lack of access to basic preventative care, a failure to manage complex care, and a failure to manage acute and/or chronic conditions. Ms. Capell said they were pleased to be a part of the Attachment 7 process and will continue to be involved in the pursuit of year-over-year improvements.

Cary Sanders, California Pan-Ethnic Health Network thanked Covered California for the landmark requirements in Attachment 7, particularly tying payment to quality improvement and health disparity reduction. They appreciate the data collection on race

and ethnicity of enrollees as they will lead to important conversations regarding cultural competency. Ms. Sanders said they were struck by the variation in quality scores between plans and the lack of basic data. Conversations regarding the role of preventative care, screening, and assessment are beneficial and necessary.

Covered California Regulations

Discussion: Update to Covered California for Small Business (CCSB) Changes to Eligibility and Enrollment Regulations

Dora Mejia, Chief Financial Officer said it was a pleasure serving as Covered California's Chief Financial Officer. Next, she provided an update to CCSB regulations. She noted that at the August 2019 Board meeting, two changes were adopted relating to a fee of twenty-five to fifty dollars for returned checks and a requirement for money orders/cashiers checks after two returned payments in a six-month period. Ms. Mejia detailed how the Office of Administrative Law interpreted Government Code 6157(b) and Civil Code 1719(a)(1) differently. The difference in interpretation led to an amendment in the proposed regulation reverting to the previous returned check fee of twenty-five dollars. The Office of Administrative Law did not require re-noticing for the change. They approved the amended regulation on November 7, 2019. No action was requested of the Board.

Public Comment: None

Discussion: Proposed Permanent Medi-Cal Managed Care Plan Enrollment Assistance Regulations

Hayley Figeroid, Outreach and Sales Division stated Covered California needs Board approval to complete the permanent rulemaking process for the Medi-Cal Managed Care Plan Enrollment Assistance (MMCP) regulations. The MMCP regulations are currently emergency regulations. This rulemaking package seeks to make all emergency regulations permanent. The Board previously approved the emergency regulations on September 21, 2017. Covered California commenced the permanent rulemaking process on September 6, 2019, by providing notice to all interested parties. The 45-day public comment period ran from September 6, 2019 to October 21, 2019. The rulemaking package does not make any major changes to the emergency regulations that the Board previously approved. Most changes address minor grammatical issues and update citations to federal regulations. Government Code section 100500(a)(6) needs the Board to discuss proposed regulations at a properly noticed meeting before adopting them. Outreach and Sales intends to return to the Board to request final approval to file the permanent regulation package with the Office of Administrative Law in January 2020.

Public Comment: None

Discussion: Update to Conflict of Interest Code

Brandon Ross, Assistant General Counsel, Office of Legal Affairs stated Covered California's conflict of interest code has not been updated since 2012. This is required

by the Political Reform Act. The conflict of interest code identifies designated positions and requires those employees who make or participate in making governmental decisions to disclose certain financial interests to help avoid conflicts of interest. The Conflict of Interest code is reviewed by the Fair Political Practices Commission (FPPC) and submitted to the Office of Administrative Law. Agencies are required to review their code every two years and update the code when positions and divisions change or are created.

There are two primary components to the conflict of interest code which have been updated. First, a list of designated positions that are required to disclose certain financial interests and file a Statement of Economic Interest form. Second, disclosure categories identify the types of financial interest employees and officials must disclose, such as gifts from health care providers or carriers. This update will be submitted to the Fair Political Practices Commission for their review and comment. Covered California will also start a forty-five-day public comment period and bring any changes/comments to the Board in January 2020.

Public Comment: None

Adjournment

Chairman Ghaly adjourned the meeting at 3:07 p.m.