

BOARD OF GOVERNORS
Executive Committee
Meeting Minutes – November 16, 2020

1055 West 7th Street, Los Angeles, CA 90017



L.A. Care
 HEALTH PLAN

Members

Hector De La Torre, *Chairperson*
 Al Ballesteros, *Vice Chairperson*
 Robert H. Curry, *Treasurer*
 Layla Gonzalez, *Secretary*
 Stephanie Booth, MD
 Hilda Perez

Management/Staff

John Baackes, *Chief Executive Officer*
 Terry Brown, *Chief Human Resources Officer*
 Augustavia J. Haydel, Esq., *General Counsel*
 Marie Montgomery, *Chief Financial Officer*
 Tom MacDougall, *Chief Information & Technology Officer*
 Francisco Oaxaca, *Chief of Communications & Community Relations*
 Noah Paley, *Chief of Staff*
 Acacia Reed, *Deputy Chief Operating Officer*
 Richard Seidman, MD, MPH, *Chief Medical Officer*

California Governor issued Executive Order No. N-25-20 and N-29-20, which among other provisions amend the Ralph M. Brown Act. Members of the public can listen to this meeting via teleconference.

AGENDA ITEM/PRESENTER	MOTIONS / MAJOR DISCUSSIONS	ACTION TAKEN
CALL TO ORDER	<p>Hector De La Torre, <i>Chairperson</i>, called the meetings to order for the L.A. Care Executive Committee and the L.A. Care Joint Powers Authority Executive Committee at 2:24 p.m. The meetings were held simultaneously. He welcomed everyone to the meetings.</p> <ul style="list-style-type: none"> • For those who provided public comment for this meeting by voice message or in writing: we are really glad that you provided input today. The Committee will hear your comments and we also have to finish the business on our Agenda today. • If you have access to the internet, the materials for today’s meeting are available at the lacare.org website. If you need information about how to locate the meeting materials, please let us know. • Information for public comment is on the Agenda available on the web site. Staff will read the comment from each person for up to three minutes. • Chairperson De La Torre will invite public comment before the Committee starts to discuss the item. If the comment is not on a specific agenda item, it will be read at the general Public Comment item 2 on today’s agenda. 	
APPROVE MEETING AGENDA	The Agenda for today’s meeting was approved.	Approved unanimously by roll call. 4 AYES

APPROVED

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		(Ballesteros, Booth, De La Torre, Gonzalez) <i>Member Curry experienced technical difficulties and was not able to vote.</i>
PUBLIC COMMENTS	There were no public comments.	
APPROVE MEETING MINUTES	<i>(Member Perez jointed the meeting.)</i> The minutes of the October 26, 2020 meeting were approved as submitted.	Approved unanimously by roll call. 6 AYES (Ballesteros, Booth, Curry, De La Torre, Gonzalez and Perez)
CHAIRPERSON'S REPORT	Chairperson De La Torre reported that while it is good news to have two potential vaccines for COVID-19 with effectiveness over 90%, they have not yet been approved and may be difficult to distribute. One vaccine has to be kept at low temperatures and refrigerators that are capable of those low temperatures are not common. It may also be difficult to ensure that people receive both required doses of the vaccine. It will be difficult to track the dosages. Initially there will be limited doses available and priority for receiving the vaccine has been listed. We will need to continue safe practices while distribution is underway. There is a long way to go to establish herd immunity (70-80%). He encouraged everyone to keep taking precautions and stay safe.	
CHIEF EXECUTIVE OFFICER REPORT	John Baackes, <i>Chief Executive Officer</i> , reported <ul style="list-style-type: none"> • Thanked Chair De La Torre for his comments. He will ask Richard Seidman, MD, MPH, <i>Chief Medical Officer</i>, for comment at the end of the report. It will be a long time before the vaccine is widely available. • L.A. Care is working hard given the current financial situation. • The pandemic is affecting L.A. Care because of the number of members with COVID-19 and the resulting hospitalizations. L.A. Care is also impacted by the economic recession, with revenue cuts and reductions in reimbursement to the health plan. 	

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	<ul style="list-style-type: none"> • L.A. Care’s current fiscal year budget is projected for an operating deficit, and staff is looking at all the opportunities available to lower administrative costs and improve efficiency. • Essential services will not be cut for members. • The election results show there will be a new administration in Washington D.C., but results for members of Congress are not yet certain. • L.A. Care is concerned about the stability of the Affordably Care Act (ACA). There were oral arguments before the Supreme Court of the United States (SCOTUS) in the California v. Texas case on November 10. It appears from the comments and questions during the oral arguments that only the mandate element of the ACA might be deemed unconstitutional as a result of the elimination of the tax penalty. A decision by SCOTUS is not expected until the end of the current session in June 2021. • Congress has not yet approved another stimulus bill. If the Republicans control the U.S. Senate, the stimulus may be smaller than what might be approved with a Democratic majority in the Senate. This will be important for California to continue to support the Medi-Cal program at the level needed. California approved a state budget that relied on additional federal stimulus funding. If there is no stimulus bill, the California state budget may include cuts in benefits for Medi-Cal. • L.A. Care is doing all it can through the Community Resource Centers (CRCs) to provide assistance. Activities at CRCs or in with agencies in the communities with which we work include food distribution and back to school events, and flu shots. It becomes more clear with every event that the communities are suffering as there is always a line remaining after all the food is distributed. L.A. Care will continue to look for opportunities to collaborate at the community level for these events because the demand is not going away anytime soon. • L.A. Care is optimistic about the future. The pandemic and economic recession are opportunities to accelerate implementation of five internal goals to increase efficiency and reduce expenses. Work continues on expanding the directly contracted provider network, offering providers additional opportunity to engage in ways that may be more fruitful for them in the long run. • The recent open enrollment for L.A. Care Covered is showing positive results. L.A. Care has an excellent price position. 	

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	<ul style="list-style-type: none"> Most organizations of similar size conduct an annual employee survey. The employee engagement survey conducted in July and August at L.A. Care showed the highest level of engagement ever? measured. Staff has responded to the crisis, has adapted to working at home, and remain focused on the mission and are doing the best they can to function as a unit despite not working in the same building. <p>Richard Seidman, MD, MPH, <i>Chief Medical Officer</i>, stated that he agrees with Chair entirely that it is incredibly important to keep up precautions for the foreseeable future. He hopes the two vaccines will soon receive emergency authorization for use and distribution. It will be many months before the vaccines are widely available as high-risk groups will be immunized first. There are over 200 million Americans that fall in the first two or three priority groups of essential workers. The vaccines that have been released are two-shot vaccines, and one has very low refrigeration requirements. Hospitals are investing in freezers that can achieve the required temperature. It is hoped there will be robust interest in receiving vaccines and that distribution will be rapid.</p>	
<p>Government Affairs Update</p> <p>Approve of L.A. Care’s 2021 State and Federal Policy Agenda</p>	<p>Cherie Compartore, <i>Senior Director, Government Affairs</i>, referred to the written Policy Agenda included with the meeting materials, which contains principles and policies that serve as the framework for the development and advocacy of positions on federal and state legislative, administrative, and budget issues. This Policy Agenda provides guidance for L.A. Care’s Government Affairs Department to respond effectively to proposals that could significantly impact L.A. Care’s strategic and operational interests. Reports are made to the Board of Governors on policy and specific positions in the regular distribution of the legislative matrix. She suggested discussing the Legislative Agenda overall and then discuss specifically the policies related to scope of practice proposed legislation, as Member Booth would like to discuss that topic.</p> <p>Ms. Compartore reported that the Legislative Agenda includes many of the principles from last year, with a few new topics which are highlighted in the written Policy Agenda:</p> <ul style="list-style-type: none"> COVID-related items Social injustice Support for behavioral health access and services Data collection and sharing <p>Member Booth stated that she feels very strongly that there is a difference in care provided by Nurse Practitioners (NP) in comparison with care provided by physicians.</p>	

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	<p>The use of NP is by example, there are other professionals that are trained for certain responsibilities. She would like to ask if the Board of Governors could support the idea that there are differences in the training and that physicians should be available for all patients. Every patient should have access to a physician. A major concern is that allowing NPs to practicing independently could lead to two levels of care. She views the question from the perspective of meeting the needs of the patients: better access to health care that is more affordable, and achieves the best outcome possible. It should be expected that a professional who assumes the responsibilities of the physician should provide more access when and where it is needed, at less expense and be the cause for healthier patients. She finds some issues with what they state they are able to do. Groups that support NPs, such as unions and other organizations that push very hard for them to do what physicians do, and there are several states that have given NPs independence. It was found that in states with independent practice NPs, the NPs actually don't practice in underserved communities any more than physicians, and may make it harder for that area to attract physicians because of competition. Medical care provided by NPs can be just as expensive if not more expensive, as more studies and laboratory work are ordered by NPs. There is a risk for the patient with every study that is ordered, and all lab tests are not 100% correct. She does not think it will be less expensive or that the underserved communities will experience more access to care. Member Booth noted that physicians receive much more training: between 7 to 14 years after college before a physician can practice independently, and with NPs it is usually 2 to 4 years after college. Physicians have between 15-20,000 patient contact hours during a three-year residency, while NPs have 500-1500 hours. Continuing education requirements are also much higher for physicians. The average physician will be better prepared to get someone healthy when the stakes are high, and it is not always clear when the stakes are high. She does not believe that NPs are aware of what they don't know. Her opinion is that in looking at the collective basis of people, NPs probably do more good than harm if people who they care for are not very ill, however when the medical case is more complicated, patients deserve to have a primary care physician who is already familiar with them, ready to provide whatever high level care is necessary. She would prefer to see physician oversight because of their training, knowledge and experience. AB890 has been enacted and signed by the Governor, allows two new types of NPs. One of the new types has an option to practice fairly independently, but the oversight by a physician is not forbidden.</p>	

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	<p>As the regulations are put forth to enact this, she asks that L.A. Care develop a position to present to the Board of Governors to indicate support for limiting the scope of practice or at least not allowing huge increases in the scope of practice for non-physicians without requiring oversight. She acknowledges that NPs provide access, but the access should be supervised by a physician.</p> <p>Chairperson De La Torre asked Ms. Compartore regarding discussion of legislation currently proposed or a broad statement for the Board of Governors regarding scope of practice.</p> <p>Ms. Compartore noted that there may be good parts and perhaps some controversial parts of scope of practice legislation. She recommended that Legislation regarding scope of practice will be brought to Executive committee on a bill by bill basis for consideration and recommendation could be made to the Board of Governors for consideration. Member Booth agreed, and suggested that there should be a general statement to reflect L.A. Care’s discouragement of a creation of another level of care for patients. Member Booth indicated that L.A. Care previously remained neutral in the issue of scope of practice, leaving the arguments against scope expansion to the physicians, but for the average physician did not want to be involved in politics and does a poor job of advocating for their patients outside a medical setting. She also suggested that this would be a good way for L.A. Care to help align more pieces of the broken health care system in a way that ensures patients get high quality health care.</p> <p>Chairperson De La Torre noted that the scope of practice legislation has been discussed by legislators for a long time. He stated that there will likely be a flood of new legislation due to the limitation to bills related to COVID-19 in 2020. He suggested a discussion at a future meeting, when proposed legislation will be available. Member Booth noted that AB890 has been signed into law already, and she encouraged discussion of regulatory issues.</p> <p>Dr. Seidman indicated that the Board of Registered Nurses are obligated to form a commission to work on implementation of AB890 by 2023. He provided information about a review by the California Health Care Foundation to inform the Committee. These types of issues are controversial. It is a challenging problem.</p> <p>The California Future Health Workforce Commission is an independent effort to develop and prioritize recommendations to meet California’s healthcare needs over the next 10 years. The commission recommended:</p>	

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	<ul style="list-style-type: none"> • Increase the supply of Nurse Practitioners • Increase NP skills • Expand NP scope of practice to full practice authority, which enables NPs to practice independently without physician supervision and with ability to prescribe medications, including medications for the treatment of opioid abuse. <p>Today, 28 states and the District of Columbia in the United States allow NPs full practice authority. The national data on NP practice is that most NPs practice primary care, that they are more likely than physicians to serve the underserved, and that the growth of NPs is faster in states with full practice authority. Systematic reviews on 11 quality indicators showed that NPs achieve the same or better outcomes than physicians. In community health centers there was no difference in quality outcomes for 9 quality indicators. Some studies have shown decreased rates of hospitalizations, readmissions and emergency room (ER) visits for patients cared for by NPs. When states change to full practice authority, data for the next two years in those states have shown increases:</p> <ul style="list-style-type: none"> • Over 3% increase in adults getting check ups • Over 3% increase for adults stating they have a usual source of care • Nearly 5% increase in adults saying they are always able to get an appointment when they are sick • Decrease of 11% in ER visits for ambulatory care sensitive conditions • Increase in access to opioid treatment. <p>He noted that this is one report, showing there are at least two sides and many different angles to this issue of expanding the scope of practice for NPs, and is not meant to oppose Member Booth but to share additional information for consideration by the Committee.</p> <p>Member Curry asked if L.A. Care employed mid-level providers such as NPs or Physician Assistants (PAs). Dr. Seidman responded that L.A. Care is required to assign members to physicians, and many practices include NPs and PAs. There is a limit in the total number of mid-level providers that a physician can supervise at one time. Member Curry noted that L.A. Care should consider its position in light of the mid-level providers included in the provider network. Dr. Seidman noted that currently California requires physician supervision and AB890 would, after a three-year transition period, enable NPs in California to potentially practice autonomously as it done in other states.</p>	

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	<p>L.A. Care will engage on the regulatory process for AB890, which was passed into law in 2020. Ms. Compartore will research the issue more thoroughly relating to implementation planning where the Board of Registered Nursing (BRN) will establish a Nurse Practitioner Advisory Committee to advise and make recommendations to the board on all matters relating to this bill. In addition, LA Care will engage the Board prior to engaging in the regulatory rulemaking process with public comment as implementation issues progress.</p> <p><u>Motion EXE 100.1220</u> To approve L.A. Care’s 2021 State and Federal Policy Agenda, as submitted.</p>	<p>Approved unanimously by roll call. 5 AYES (Booth, Curry, De La Torre, Gonzalez and Perez) <i>Member Ballesteros experienced technical difficulty and was not able to vote.</i></p>
<p>Approve L.A. Care’s Revised Conflict of Interest Code</p>	<p>Augustavia Haydel, Esq. <i>General Counsel</i>, indicated that the required revisions included updated employee positions and categories of disclosures that need to be made for the economic and financial interests which must be disclosed and types of authority that can be wielded for L.A. Care and the JPA. The changes will be redlined in the version which will be distributed for the upcoming Board meeting.</p> <p><u>Motion EXE 101.1220</u> To approve revisions of the Conflict of Interest Code of the L.A. Care Health Plan, as attached, for submission to the Los Angeles County Board of Supervisors and delegate authority to CEO and General Counsel (including respective designees) to make any non-substantive changes or changes that may be required by the County upon their review.</p>	<p>There was no objection to placing this item on the Consent Agenda for the December 3 Board Meeting.</p>
<p>Delegation to CEO to implement revisions to Human Resources Policy HR 220 (Telecommuting) (EXE A)</p>	<p>Terry Brown, <i>Chief Human Resources Officer</i>, noted that given the timing of the Board meetings and the current pandemic situation, it is necessary to request that the Board authorize the Chief Executive Officer and Chief Human Resources Officer to approve updates to Policy HR-220 Telecommuting prior to the next Board meeting in February, 2021.</p> <p>L.A. Care Health Plan (L.A. Care) recognizes that remote work is an appropriate business tool to address employee satisfaction, commitment, productivity and the ability to attract and retain talent.</p> <p>The current experience with remote work due to the COVID-19 public health emergency has allowed us to understand some benefits of this model of employment. The recent experience has identified the need to increase flexibility within HR-220 Telecommuting. As such, staff is proposing concepts to address flexibility within to HR-</p>	

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	<p>220 Telecommuting policy for employees whose job duties are conducive to working from home.</p> <p>Below is a summary of concepts for revisions we are proposing for Human Resources Policy & Procedure HR-220 Telecommuting:</p> <ul style="list-style-type: none"> • Policy will address L.A. Care’s position on both in-state and out-of-state telecommuting and related processes with an emphasis on employees remaining within commuting distance of L.A. Care to attend staff meetings, for IT support and to obtain necessary supplies. A process for approval for employees wishing to work from outside of California will be included. International telecommuting will not be allowed. • Employees will continue to be responsible for all tax and other legal implications such as the business use of their home. • Standards for Exempt and Non-Exempt Employees work availability and wage and hour compliance will be defined. • Standards to address the use of L.A. Care’s equipment, privacy, security, HIPAA and compliance with applicable standards will be addressed in the Policy or implementing documents. • Standards for telecommuting and its terms and conditions will be set. <p>Mr. Brown noted that employees’ at will status of employment will not change.</p> <p>Member Booth asked about Worker’s Compensation and safety inspection of remote work environments. Mr. Brown indicated that L.A. Care will still be responsible for Worker’s Compensation. Safety inspections are currently being conducted by photographs. Ergonomic assessments are also being conducted by photographs.</p> <p>Member Ballesteros asked how widely the safety inspection is conducted. Mr. Brown indicated that the inspections are only about the workspace.</p> <p><u>Motion EXE A.1120</u> Approve delegated authority to the Chief Executive Officer and Chief of Human Resources (including their respective designees) to make necessary revisions to the Human Resources Policy & Procedure HR-220 Telecommuting consistent with concepts discussed.</p>	<p>Approved unanimously by roll call. 6 AYES (Ballesteros, Booth, Curry, De La Torre and Perez), 1 ABSTENTION (Gonzalez)</p>

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Approve the Consent Agenda for December 3, 2020 Board of Governors meeting	<p>Approve the list of items that will be considered on a Consent Agenda for December 3, 2020 Board of Governors Meeting, Chairperson De La Torre noted that the Children’s Health Consultant Advisory Committee will consider a motion to approve a member, and there was no objection by the Executive Committee to include a motion approved by that committee on the Consent Agenda for December 3.</p> <ul style="list-style-type: none"> • Minutes of November 5, 2020 Board of Governors Meeting • L.A. Care’s Revised Conflict of Interest Code • Quarterly Investment Report • Allocation of Funds for L.A. Care Credentialing/Peer Review Committee Physician Stipends • QPerior Contract Amendment • Westfall Commercial Furniture Contract Amendment 	<p>Approved unanimously by roll call. 6 AYES (Ballesteros, Booth, Curry, De La Torre, Gonzalez and Perez)</p>
PUBLIC COMMENTS	There were no public comments for the closed session items.	
ADJOURN TO CLOSED SESSION	<p>Ms. Haydel announced the items to be discussed in closed session. She announced there is no report anticipated from the closed session. The meeting adjourned to closed session at 3:28 p.m.</p> <p>CONTRACT RATES Pursuant to Welfare and Institutions Code Section 14087.38(m)</p> <ul style="list-style-type: none"> • Plan Partner Rates • Provider Rates • DHCS Rates <p>REPORT INVOLVING TRADE SECRET Pursuant to Welfare and Institutions Code Section 14087.38(n) Discussion Concerning New Service, Program, Business Plan Estimated date of public disclosure: <i>November 2022</i></p> <p>CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Section 54956.9(d) (2) of Ralph M. Brown Act Three Potential Cases</p> <p>CONFERENCE WITH LABOR NEGOTIATOR Pursuant to Section 54957.6 of the Ralph M. Brown Act Agency Designated Representative: John Baackes Unrepresented Employee: All L.A. Care Employees</p>	

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RECONVENE IN OPEN SESSION	The meeting reconvened in open session at 4:02 pm. No reportable actions were taken during the closed session.	
Employee Annual Incentive Plan	<p>Mr. Brown reported that employees are eligible to participate in an annual incentive program based upon job classification, under one of the following components:</p> <ul style="list-style-type: none"> • Monthly Production Incentives Program based on pre-determined criteria; • Individual Annual Incentives Program based on pre-determined goals; and, <p>The Production Incentive Program was budgeted and is paid monthly according to policy.</p> <p><i>(Member Curry left the meeting.)</i></p> <p>This request is for authorization to payout for the Annual Incentives Program, not to exceed \$7.1 million.</p> <p><u>Motion EXE 102.1220</u> To authorize the disbursement of funds up to \$7.1 million for the Individual Annual Incentive Program, based on the completion of pre-determined individual goals and targets in support of L.A. Care’s FY 2019-20 Organizational Goals. Distribution of the annual incentive payout shall be guided by Human Resource Policy No. 602, Annual Organizational Incentive Program.</p>	<p>Approved unanimously by roll call. 5 AYES (Ballesteros, Booth, De La Torre, Gonzalez and Perez)</p>
ADJOURNMENT	The meeting adjourned at 4:32 p.m.	

Respectfully submitted by:

Linda Merkens, *Senior Manager, Board Services*
Malou Balones, *Board Specialist III, Board Services*
Victor Rodriguez, *Board Specialist II, Board Services*

APPROVED BY:

Hector De La Torre, *Chair*
Date: _____

APPROVED

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APPROVED BY:

DocuSigned by:

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Hector De La Torre, *Chair*
Date: 2/1/2021 | 2:58 PM PST

APPROVED