

# Health Care Affordability Board

## Manual

March 21, 2023

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## I. Purpose and Authority

### A. Purpose

The Health Care Affordability Board (“HCAB” or “Board”) is established within the Office of Health Care Affordability (“OHCA” or “Office”). The Board shall establish a Health Care Affordability Advisory Committee (“Advisory Committee”). This manual is designed to define and describe the authority, policies, and procedures for the governance of the Board and Advisory Committee. It will serve as a reference to inform Board members and Advisory Committee members about their respective roles, responsibilities, authority, and related governance processes.

This document will be a living document, which may be amended over time. In the case of a conflict between the manual and federal or state law, the law takes precedence.

## II. Board Roles and Responsibilities

The Board shall establish the following:

1. A statewide health care spending target.
2. The definitions of health care sectors.
3. The standards for exemption from health care spending targets.

The Board shall approve the following:

1. Methodology for setting health care spending targets.
2. The scope and range of administrative penalties.
3. The benchmarks for primary care and behavioral health spending.
4. The statewide benchmarks for the adoption of alternative payment models and standards.
5. The standards to advance the stability of the health workforce that may apply in the approval of performance improvement plans.

For more specific roles and responsibilities, refer to Appendix A “*Activities in the Health Care Affordability and Quality Act*”.

## III. Board Governance

### A. Membership

#### 1. Selection

The Health Care Affordability Board consists of eight members, as follows:

- Four members shall be appointed by the Governor and confirmed by the Senate.
- One member shall be appointed by the Senate Committee on Rules.
- One member shall be appointed by the Speaker of the Assembly.
- The Secretary of Health and Human Services or their designee.
- The CalPERS Chief Health Director or their deputy shall serve as a nonvoting member of the Board.

## **2. Terms & Vacancies**

Members of the Board who are appointed shall be appointed for a term of four years, except that the initial appointment by the Senate Committee on Rules shall be for a term of five years, the initial appointment by the Speaker of the Assembly shall be for a term of two years, and one of the initial appointments by the Governor shall be for a term of three years.

A member of the Board may continue to serve until the appointment and qualification of a successor. Vacancies shall be filled by appointment for the unexpired term. <sup>1</sup>

## **B. Committees**

The Office shall establish advisory or technical advisory committees at the request of the Board. These advisory committees may be standing advisory committees or time-limited workgroups, at the discretion of the Board. Members of these advisory committees shall comply with the requirements in paragraph (1) of subdivision (c) of Section 127501.10. An advisory committee established by the Board shall aim for broad representation, including, at a minimum, representatives of consumer and patient groups, payers, fully integrated delivery systems, hospitals, organized labor, health care workers, medical groups, physicians, and purchasers. The Office may also establish advisory or technical advisory committees, as needed.

## **C. Board Chair**

The Board shall elect the Board chair. The Board chair provides guidance to ensure the Board operates in a manner consistent with statutes, procedures, and best practices.

## **D. Meetings**

### **1. Compliance with Bagley-Keene Open Meeting Act**

Meetings are subject to Bagley-Keene open meeting rules, which are designed to promote transparency and provide members of the public an opportunity to observe and comment on business before the Governing Board.<sup>2</sup>

### **2. Frequency**

The Board shall meet at least quarterly or at the call of the chair.

### **3. Agenda and Notice of Meetings**

The agenda and public meeting notice for each meeting must be posted to the OHCA website no less than 10 days prior to the meeting date.

### **4. Minutes**

The Office will prepare the minutes. The minutes will reflect the deliberative discussions of the Board and its advisory committees, the decisions reached, and the actions taken.

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<sup>1</sup> Health and Safety Code Section 127501.10(b)

<sup>2</sup> Government Code Section 11120 et seq.

## **5. Conduct**

In the absence of a specific Board rule, the procedural conduct of Board and Advisory Committee meetings shall be based on Robert's Rules of Order.

## **6. Scheduling**

The Office is responsible for scheduling and coordinating meetings. The Office will establish the board meeting calendar based on statutory timelines for Board roles and responsibilities. Board meeting recordings will be posted to the OHCA website.

## **E. Closed Sessions**

The Board shall be subject to the Bagley-Keene Open Meeting Act, except that the Board may hold closed sessions when considering matters related to the Office assessing administrative penalties, requiring performance improvement plans, and discussing nonpublic information and documents received by the Office and Board.<sup>3</sup>

# **IV. Quorum and Decision-Making**

## **A. Attendance**

Attendance by telephonic, or other electronic means requires advance notice, and any members participating remotely do not count towards establishing a quorum, unless otherwise allowed by law.

## **B. Quorum**

A quorum must be present for the meeting to occur.

## **C. Voting Method**

Votes by the Board are taken by roll call of the Board members. Each Board member's vote shall be recorded in the minutes.

## **D. Voting**

Voting Board members are all given equal voting power in the form of a single vote on all issues for which they have the authority to decide.

Board decisions require a majority vote.

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<sup>3</sup> Health and Safety Code Section 127501.1(e)(2)

## V. Health Care Affordability Advisory Committee

### A. Scope

The Board shall establish a Health Care Affordability Advisory Committee (“Advisory Committee”) to provide input, including recommendations, to the Board and the Office on a range of areas, including, but not limited to, the following:

1. A statewide health care spending target and specific targets by health care sector and geographic region.
2. The methodology for setting spending targets and adjustment factors to modify targets when appropriate.
3. Definitions of health care sectors.
4. Benchmarks for primary care and behavioral health spending.
5. Statewide benchmarks for the adoption of alternative payment models and standards.
6. Quality and equity metrics.
7. Standards to advance the stability of the health care workforce.
8. Other areas requested by the Board or the Office.

### B. Appointment

The Board appoints the members of the Advisory Committee. Appointments shall be made by a majority vote of the voting members of the Board. When appointing members to the Advisory Committee, the Board shall aim for broad representation, including, at a minimum, representatives of consumer and patient groups, payers, fully integrated delivery systems, hospitals, organized labor, health care workers, medical groups, physicians, and purchasers, and shall apply the same considerations of demonstrated knowledge, expertise, diversity, and personal experience outlined in Health and Safety Code Sections 127501.10 (c)(1) to (3).<sup>4</sup>

Each appointed member shall serve at the discretion of the Board and may be removed at any time by a majority vote of the voting members of the Board.

### C. Meetings

The Advisory Committee shall meet at least four times per year, or when requested by the Board.

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<sup>4</sup> Health and Safety Code Sections 127501.10 (c)(1) to (3) require Board members to have expertise in at least one of the following areas: health care economics; health care delivery; health care management or health care finance and administration; health plan administration and finance; health care technology; research and treatment innovations; competition in health care markets; primary care; behavioral health; purchasing or self-funding group health care coverage for employees; enhancing value and affordability of health care coverage; or organized labor that represents health care workers. In addition, consideration must be made to reflect a diversity of expertise, as well the state’s diversity in culture, race, ethnicity, sexual orientation, gender identity, and geography. Appointing authorities must also consider any experience as a patient or caregiver of a patient with a chronic condition requiring ongoing health care, including behavioral health care or a disability.

Advance notice of Advisory Committee meetings shall be posted on the Office's website to allow for public participation at the meetings in compliance with the Bagley-Keene Open Meeting Act. Meeting minutes of all Advisory Committee meetings and input, including recommendations, on proposed spending targets shall be posted on the Office's website.

The Board shall consider input, including recommendations, from the Advisory Committee, along with public comments, in the Board's deliberation and decision-making.

#### **D. Board Attendance**

One member of the Board shall attend the Advisory Committee meetings. The Board shall determine which Board member attends each Advisory Committee meeting.

#### **E. Access to Information**

The Advisory Committee members shall not have access to confidential, nonpublic information that is accessible to the Board and Office. The Advisory Committee shall only have access to information that is publicly available.

## **VI. Requests for Data Analysis**

#### **A. Board Requests**

To support the Board's decision-making, the Board may request data analysis to be conducted or collected by the Office.

The Board may request by a vote that the office conduct research or data analysis, or both. The request shall describe the purpose, focus, priority, deliverables, and one responsible board member. The Office will evaluate the request for feasibility and available resources. In the event that the office does not have sufficient resources to accomplish all feasible requests, the office will work with the board chair to prioritize pending requests.

The Advisory Committee may provide input, including recommendations, to the Board regarding Board requests for data analysis performed by the Office, but does not have authority to direct or request data analysis or any other work performed by the Office.

## **VII. Reimbursement of Board and Committee Members**

#### **A. Board Reimbursement**

Each member of the Board may receive a per diem of five hundred dollars (\$500) for each day actually spent in the discharge of official duties, not to exceed 30 days per year, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties. After June 30, 2026, the per diem shall be one hundred dollars (\$100) per day.

Notwithstanding any other law, a public officer or employee shall not receive per diem salary compensation for serving on the Board on any day when the officer or employee also received compensation for their regular public employment.

## **B. Committee Reimbursement**

Advisory Committee members shall receive reimbursement for travel and other actual costs.

## **VIII. Conflicts of Interest**

Conflicts of interest are covered not only by statute, but also common law doctrines.

Under the Political Reform Act, a conflict of interest applies to a board member, a member's family, or a member's employer. A guiding principle is board members "should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them." Common law prohibitions against "self-dealing" are well-established in California case law. Government Code section 1090 codifies the common law prohibition on self-dealing.

Any potential conflict of interest must be analyzed under both the Political Reform Act and section 1090. If there is any appearance of financial interest or self-dealing, then a board member shall determine whether there is any actual conflict of interest. If there is a conflict under common law, regulation or statute, a board member may not make, participate, or in any way attempt to use their position to influence the governmental decisions.

Similarly, incompatible activities are covered not only by statute, but also common law doctrines. A board member shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to their duties as a board member. Such activities and enterprises include use of prestige or influence for private gain or advantage and use or access to confidential information for private gain or advantage, and disclosure to unauthorized persons. The common law prohibition on incompatible activities requires a board member take pro-active measures to ensure that they do not place themselves in a position in which personal interest may come into conflict with the duty, which they owe to the public.

Board members are required to file a Statement of Economic Interest (Form 700).

Incoming members of the Board must file a Form 700 with full disclosure within 30 days of being sworn in. Exiting Board members must also file a final statement within 30 days of leaving office. The Form 700 is a public document. Failure to timely file the Form 700 may expose the official or employee to fines, penalties or criminal prosecution.

Members of the Board must file annual statements. In addition, members will have to file within 30 days of a newly adopted or amended conflict of interest code.

For assistance with filing Form 700, contact the HCAI filing officer.

## IX. Public Records Act

The business of the Office and the activities of its Board and Advisory Committee are subject to the requirements of the Public Records Act (PRA). The PRA mandates that governmental records shall be disclosed to the public upon request unless there is a specific reason not to do so.

The Office is responsible for responding to PRA requests. Because the PRA includes specific deadlines and other legal requirements, members of the Board and Advisory Committee should be alert to any inquiries that might be construed as a PRA request. When in doubt, refer the matter to the HCAI Legal Office for follow up.

## X. Appendix

### A. Activities in the Health Care Affordability and Quality Act <sup>5</sup>

	Matter
Approve	<ul style="list-style-type: none"> <li>▪ Advisory Committee Membership</li> <li>▪ Methodology for setting and modifying spending targets</li> <li>▪ Alternative Payment Model Adoption</li> <li>▪ Primary Care and Behavioral Health Spending Benchmarks</li> <li>▪ Health Care Workforce Stability Standards</li> <li>▪ Policies for administrative penalties</li> <li>▪ Exempted Providers</li> </ul>
Establish	<ul style="list-style-type: none"> <li>▪ Statewide health care spending target</li> <li>▪ Specific targets by health care sector</li> <li>▪ Definitions of health care sectors</li> <li>▪ Exempted Providers</li> </ul>
Consult	<ul style="list-style-type: none"> <li>▪ Health Care Workforce Stability Standards</li> <li>▪ Risk adjustment methodologies for reporting of data on total health care expenditures</li> <li>▪ Equity adjustment methodologies for reporting of data on total health care expenditures</li> <li>▪ Spending target enforcement</li> </ul>
Discuss	<ul style="list-style-type: none"> <li>▪ Director's presentation of key items for discussion, including:               <ul style="list-style-type: none"> <li>○ Options for statewide health care spending targets</li> <li>○ Collection, analysis, and public reporting of data</li> <li>○ Risk adjustment methodologies for the reporting of data on total health care expenditures</li> <li>○ Review and input on performance improvement plans prior to approval</li> <li>○ Review and input on administrative penalties</li> <li>○ Factors that contribute to spending growth within the state's health care system</li> <li>○ Strategies to improve affordability for both individual consumers and purchasers of health care</li> <li>○ Recommendations for administrative simplification in the health care delivery system</li> <li>○ Approaches for measuring access, quality, and equity of care</li> <li>○ Recommendations for updates to statutory provisions necessary to promote innovation and to enable the increased adoption of alternative payment models</li> <li>○ Methods of addressing consolidation, market power, and other market failures</li> </ul> </li> <li>▪ Rulemaking Packages               <ul style="list-style-type: none"> <li>○ Total Health Care Expenditures Data Collection</li> <li>○ Written notice of health care entity agreements or transactions and Cost and Market Impact Review</li> <li>○ Alternative Payment Model Data Collection</li> <li>○ Primary Care and Behavioral Health Spending Data Collection</li> <li>○ Standard Quality and Equity Measures Data Collection</li> <li>○ Audited Financial Reports or Comprehensive Financial Reports from Providers</li> </ul> </li> <li>▪ Annual Report</li> <li>▪ Baseline Report</li> </ul>

<sup>5</sup> Health and Safety Code sections 127500-127507.6.

## B. Robert Rules Quick Reference

Action	Must Be Seconded	Open for Discussion	Can be Amended	Vote Count Required to Pass	May Be Reconsidered or Amended
Main Motion	✓	✓	✓	Majority	✓
Amend Motion	✓	✓		Majority	✓
Kill a Motion	✓			Majority	✓
Limit Debate	✓		✓	2/3 <sup>rds</sup>	✓
Close Discussion	✓			2/3 <sup>rds</sup>	✓
Recess	✓		✓	Majority	
Adjourn (End meeting)	✓			Majority	
Refer to Committee	✓	✓	✓	Majority	✓
Postpone to a later time	✓	✓	✓	Majority	✓
Table	✓			Majority	
Postpone Indefinitely	✓	✓	✓	Majority	✓