

*Board GOVERNANCE COMMITTEE MEETING MINUTES – Thursday, August 4, 2022*

**AGENDA ITEM**

**CONCLUSION/ACTION**

**FOLLOW UP/RESPONSIBLE PARTY**

**FINAL?**

**DISCUSSION**

**NOTICE OF MEETING**

Notice of upcoming meeting was posted Thursday, July 28, 2022. Full agenda packet was posted on the Palomar Health website on Thursday, July 28, 2022.

**CALL TO ORDER**

The meeting was held virtually via GoToMeeting pursuant to Board Resolution No. 01.10.22(03)-03 and called to order at 12:00 p.m. by Committee Chair Jeff Griffith.

**ESTABLISHMENT OF QUORUM**

- Quorum comprised of: Chair Jeff Griffith, Director Terry Corrales, and Director Laura Barry
- Excused Absences: None

**PUBLIC COMMENTS**

- None

**FOLLOW UP ITEMS**

- None

**ACTION ITEMS**

1. Minutes: Board Governance Committee Meeting – Thursday, June 2, 2022

**MOTION** by Director Barry, 2<sup>nd</sup> by Director Corrales to approve the June 2, 2022 meeting minutes as written. Roll call voting was utilized: Director Barry - Aye

Y

	Director Corrales - Aye Director Griffith - Aye  All in favor. None opposed.		
<b>DISCUSSION:</b> None			
2. Board Policy: Board Dispute Resolution #70012			
	<b>MOTION</b> by Director Corrales, 2 <sup>nd</sup> by Director Barry to accept the policy as written. Roll call voting was utilized: Director Corrales - Aye Director Barry - Aye Director Griffith - Aye  All in favor. None opposed.	Committee Secretary to forward policy to the Full Board for review and approval.	Y
<p><b>DISCUSSION:</b> Mr. DeBruin, Esq. stated that the draft Board Dispute Resolution policy had been created by Holland and Knight and requested that Ms. Brown, Esq. present the policy to the committee. Ms. Brown, Esq. stated that the policy is intentionally brief and encourages a cohesive Board that works toward the common goal of advancing the organization and its goals. Article I includes definitions that define engagement and active dialogue. Article II defines the commitment. This commitment's intent is to assist individual directors or factions of the Board to obtain resolution in conjunction with the Legal Department, General Counsel, or equivalent position to ensure compliance with the Ralph M. Brown Act. Article III defines third-party neutral options for further dispute resolution within a flexible framework. The board is empowered to appoint a third party for a formal negotiation, mediation, or arbitration depending on the dispute, and if there are four or more members of the Board involved, the Brown Act procedures must be followed. The policy provides considerable discretion on what tool to employ, and that all issues initially go through the Legal department, which provides a safe guard to both the Board and the organization.</p> <p>Director Barry requested clarification on the difference between mediation and arbitration. Ms. Brown, Esq. stated that in mediation the parties decide whether an issue is confidential or not, in arbitration issues can be public. The main difference between arbitration and mediation is that in arbitration the arbitrator makes findings of fact and findings of law that are binding on the parties and so the arbitrator impacts the legal rights of the parties. In mediation, the mediator works with the parties and the parties determine their own negotiated written outcomes that are agree to and that agreement becomes binding on the parties.</p> <p>Director Barry asked if the presented policy is a typical/standard type policy with the three different levels of Alternative Dispute Resolution (ADR), would like to understand more thoroughly how this would work for the Board, and if the Board would choose which level to implement. Ms. Brown, Esq. stated that it was envisioned that disputes would first be brought to the Legal Department, Legal would review the dispute, and would then make a written recommendation to the Full Board on which procedure is best suited for the facts and circumstances of that dispute. If the dispute was one Board member against another Board member, a negotiated compromise may be the better approach and would be confidential. If a dispute originated from a faction of the Board, such as four members against three members, then that would tip the process over into the Brown Act so that part of the negotiated compromise would have a public component.</p> <p>Director Corrales asked if the Board has to be in agreement that there is a dispute and if there needs to be a vote to determine if they wish to go to ether arbitration, mediation, or negotiation. Ms. Brown, Esq. stated that when a dispute first arises it would go to Legal and Legal would make a written recommendation to the Full Board on how to address it. However, it could be that none of the ADR processes are acceptable or appropriate depending on what Legal recommends. The Full Board would then take a vote and a simple majority of the Board members would determine whether to accept or reject Legal's recommendation. Holland and Knight built in a safe guard to ensure that Legal initially views all disputes involving the Board.</p> <p>Director Corrales asked that if someone wanted to bring a dispute to the Board would they do so at a Board meeting. Would Legal then step in and provide particulars of the issue, and would the Board have to vote by simple majority as to whether they wanted to continue or not? Ms. Brown, Esq. stated yes, except if someone has an individual concern. For individual disputes one should first speak with Legal and then Legal or outside counsel would make a recommendation on how to deal with that dispute. If Legal believes it should be presented to the Full Board, Legal would create a write up and present it to the Full Board. The Full Board would then vote to accept or reject the recommendation.</p>			

Director Griffith stated that this policy was created because ACHD's list of best practices contained this type of policy and Palomar Health did not have anything similar. Plus, an issue came up in the past between Board members where the Board determined it would be beneficial to hire a corporate counselor to speak with Board members. Director Griffith's aspirations for this policy are to act as a gateway for any conflict, which might first be settled at the legal department level without going to the Full Board. Legal could be considered a counseling service that begins the process and goes to increasing levels depending on the situation. This policy is an avenue to address everyone's concerns and to resolve conflicts before they explode, before they go to the Full Board, and before they go to the newspapers. Director Griffith stated that the policy will be beneficial to Palomar Health.

Director Griffith asked Director Barry for her thoughts and concerns regarding the policy. Director Barry stated that she thought it was a good policy, although she is still concerned about lawsuits. If one Board member decides to sue another Board member, can the policy ensure mediation is the first step? Ms. Brown, Esq. stated that yes, this is part of the reason the policy was created. When Board members are backed by third party organizations, there are two different tools that can be used: 1) the Board of Directors Code of Conduct, and 2) the Board Dispute Resolution policy. This policy endeavors to funnel disputes into defined procedures and provides a basis for stating that an individual director is responsible for following the policy first. To the extent that an individual does not raise the issue internally, then they are in violation of the Board Dispute Resolution policy as well as the Board of Directors Code of Conduct policy.

Director Griffith asked for Director Corrales' thoughts and concerns regarding the policy. Director Corrales stated that she is in agreement with the policy, that she appreciates the policy funnels disagreements into Legal as a first step, and appreciates that those who try to avoid the process will be in violation of both the Board of Directors Code of Conduct policy and the Board Dispute Resolution policy.

Director Griffith asked Ms. Brown, Esq. if there were any legal concerns with this policy. Ms. Brown, Esq. stated that the only concern she sees is a potential accusation that if disputes are first funneled to private mediation, Palomar may be running afoul of the Brown Act. That is why the policy states that actions must be in accordance with the Brown Act. Palomar needs to ensure that no one tries to hide disputes, while also trying to ensure that inter-Board disputes are handled internally so they don't create outside litigation without the Board having awareness of it.

Director Corrales stated that hopefully this policy will reduce or eliminate civil lawsuits. Board issues are addressed in the public eye according to the Brown Act. Ms. Brown, Esq. stated that this policy is trying to mirror other agency formats in that agencies will first exhaust administrative remedies before appealing to Superior Court. To the extent that Palomar can't somehow resolve disputes through this policy, then and only then can a Board member resort to the outside court system. Palomar obviously does not want to keep people from exercising their rights to the court system. Palomar can point them to this policy informing them of the proper procedure, and if an agreement cannot be reached in a less expensive negotiated compromise using the third party neutral, then and only then can other avenues of solving disputes be implemented.

Director Griffith stated that this policy gives Legal another responsibility as the initial contact to instruct others as to what it means and how to implement dispute resolution. The policy offers a menu of different solutions and provides a defined process that attempts to resolve conflicts in a less expensive and less disruptive manner. This policy will need to go to the Full Board for review and approval. Director Griffith then asked how many sources Ms. Brown, Esq. researched to develop this policy. Ms. Brown, Esq. stated she had reviewed six or seven policies from both the private and public sectors. She chose to review private sector policies because the private sector is very aware of how expensive individual Board disputes can be when brought to a court system. A couple private Boards use this ADR procedure, plus they have a list of third party neutrals that specialize in corporate governance and offered to provide a list to Palomar Health. Director Griffith stated that this is a fantastic policy and he appreciates everyone's hard work.

3. Board Policy; Extraordinary Event Management #58873

**MOTION** by Director Barry, 2<sup>nd</sup> by Director Corrales to table the policy until the committee can review the redlined version and vote at that time.  
 Roll call voting was utilized:  
 Director Barry - Aye  
 Director Corrales - Aye  
 Director Griffith - Aye  
  
 All in favor. None opposed.

Ms. Brown, Esq. to send housekeeping edits to the Committee Secretary and redlines (if any) to the committee for review.

N

**DISCUSSION:** Mr. DeBruin, Esq. stated that this policy is on the standard tri-yearly review and was not recommended for retirement by Holland and Knight during the Bylaw and Board policies review in the middle of last year. Director Greer asked if this policy is actually needed. Mr. DeBruin, Esq. stated that he had no suggestions for changes and this policy is at the Boards discretion, although he thought it was unnecessary. If there was an extraordinary event, the Board has broad power under the Brown Act to act immediately

and swiftly to call emergency meetings without notice. So, if an emergency took place the Board could do all necessary steps without this policy. Mr. DeBruin, Esq. deferred to Ms. Brown, Esq. for comments. Ms. Brown, Esq. stated that Holland & Knight decided to keep the policy because there were patient care matters associated with it and matters covered by Legal, Risk, and Compliance. Ms. Brown offered to circulate the edits for the policy and stated that it is good to define an extraordinary event to the extent it requires Board attention. The Board should be aware of all of extraordinary matters and people should report them, and to the extent that people do not report them, then this policy provides the Board a measure of coverage to say, "did the employee, executive, or Board member follow this procedure or bring it to the Board's attention in a timely manner". If the Board was not informed, it relieves the Board of some measure of liability pursuant to the business judgement.

Director Griffith asserted that this policy should be kept and requested the edits/redlines that Ms. Brown, Esq. mentioned. Ms. Brown, Esq. stated that many of the edits were housekeeping and she will send them to the Committee Secretary for updating. Any redlines found will be forwarded to the Board Governance Committee members and suggested tabling the policy till the next Governance meeting. The committee members agreed to table the policy.

Director Corrales agreed that this policy is an additional safeguard for Palomar Health to ensure all rules are being followed. Ms. Brown, Esq. stated this policy provides a defense to potential liabilities for the Board in the event of an extraordinary incident when reporting channels are not appropriately followed. Director Corrales stated that the policy is a good idea and thanked Ms. Brown for her thorough clarification of the policy.

4. Board Policy; Political Activities on Palomar Health Property #21783

	<p><b>MOTION</b> by Director Barry, 2<sup>nd</sup> by Director Corrales to approve the policy as written. Roll call voting was utilized: Director Corrales - Aye Director Barry - Aye Director Griffith - Aye</p> <p>All in favor. None opposed.</p>	<p>Committee Secretary to forward policy to the September 12, 2022 Full Board for review and approval. Mr. DeBruin, Esq. to distribute the policy to all Board members via email after the next Full Board meeting.</p>	<p>Y</p>
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**DISCUSSION:** Mr. DeBruin, Esq. stated that this policy was recommended to be kept by Ms. Brown, Esq. and Mr. Holtzman, Esq. The policy lays out, under the Political Reform Act, the prohibitions of elected officials in using property or other means of a local government agency to campaign on local government property. Since this is an election year it is important for the Full Board to review and understand its prohibitions and standards of practice. Although the three directors on this committee are not up for this current re-election, the other four are. So, it would be a good idea to review the prohibitions of the Political Reform Act and best practices under the Fair Political Practices Commission related to political activities at the Full Board level. Director Corrales stated that she thinks this policy is absolutely necessary. She would like a copy of the policy to be emailed to all Board members to emphasize the importance of following these rules, especially in this electoral year. Director Griffith requested that Legal distribute an email to the Full Board regarding the policy, asserting that the Governance Committee requested this distribution. Mr. DeBruin, Esq. stated that Legal will distribute the policy to all the Board members. by sending it to the Board Chair and then blind cc'ing all the Directors so that no one can respond to avoid improper Brown Act communications. Mr. DeBruin, Esq. volunteered to send the email out after the next Full Board meeting with hopes that Director Greer could be informed and she could mention it during her standard comments at the upcoming Full Board meeting. Director Corrales agreed that the process is perfect.

5. Board Policy: Public Comments and Attendance at Public Board Meetings #21790

	<p><b>MOTION</b> by Director Barry, 2<sup>nd</sup> by Director Corrales to approve the policy with the requested changes. Roll call voting was utilized: Director Barry - Aye Director Corrales - Aye Director Griffith - Aye</p> <p>All in favor. None opposed.</p>	<p>Committee Secretary to remove the "Definitions" section and forward the policy to the Full Board for review and approval.</p>	<p>Y</p>
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**DISCUSSION:** Mr. DeBruin, Esq. stated that this policy was revised before the Bylaws major revision. There are references in the Bylaws on how to conduct the public comment period, although this policy is more specific in how the Board will conduct the public comment period. The main change was to alter the two 15 minute periods (one at the

beginning and one at the end of the meeting) into one 30 minute period at the beginning of every meeting, including committee meetings. Additional changes were incorporated from the public comment section under the Brown Act into this policy; it restates the statutes relating to public comments under the Brown Act. At the time Holland & Knight reviewed the policy they recommend to keep it as an ancillary policy in conjunction with the Bylaws. Mr. DeBruin's, Esq. main concern is misunderstandings by assistants or others not familiar with the Brown Act and the potential miss-instruction that the forms are required, when in reality they are not required. All attendees at meetings that are not disruptive are allowed to provide a public comment during the comment period within the time frame established. There is a form that we ask attendees to fill out when making a public comment, which is permissible, we just can't require it. Ms. Brown, Esq. agreed that having an ancillary public policy is good in that it indicates the Board's investment and concerns in public thoughts and opinions. Director Griffith supported the changes for the elimination of the second public comment period, which makes this policy more in line with best practices, the Brown Act, and other regulations. Director Corrales stated that ethics legislation states that people do not have to provide their name if they choose not to. So it is important to let the public know, to listen to their concerns, and not comment on their comments; this is a very important policy. Ms. Brown, Esq. suggested deleting the "Definitions" heading as there are no definitions and the committee agreed.

6. Board Policy; Public Comment Form #62012

	<p><b>MOTION</b> by Director Corrales, 2<sup>nd</sup> by Director Barry to approve the policy with recommended edits to be completed by Legal.          Roll call voting was utilized:          Director Corrales - Aye          Director Barry - Aye          Director Griffith - Aye</p> <p>All in favor. None opposed.</p>	<p>Legal to update the Public Comment Form. Committee Secretary to forward the form to the Full Board for review and approval.</p>	<p>Y</p>
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**DISCUSSION:** Mr. DeBruin, Esq. stated that this form is attached to the Public Comments and Attendance at Public Board Meetings policy and changes need to be made to some of the language such as changing "shall" to be permissive and not mandatory and suggested a motion to approve this policy with changes that Legal will make. The committee agreed. Director Barry suggested that the Public Comment Form and the Public Comments and Attendance at Public Board Meetings policy be provided to the Board together.

7. Board Policy; Board Agenda Creation #63352

	<p><b>MOTION</b> by Director Corrales, 2<sup>nd</sup> by Director Barry to retire the policy.          Roll call voting was utilized:          Director Corrales - Aye          Director Barry - Aye          Director Griffith - Aye</p> <p>All in favor. None opposed.</p>	<p>Committee Secretary to forward the policy to the Full Board for review and retirement.</p>	<p>Y</p>
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**DISCUSSION:** Mr. DeBruin, Esq. stated that after the last Bylaw review, the Bylaws now give the Chair the authority to set the agenda for regular meetings and allows for other Board members to make suggestions. The purpose extensively relates to both regular and committee meetings, but the actual policy only relates to committee meetings. Mr. DeBruin, Esq. suggested this policy be retired. Board agenda creation processes and procedures can be included in the Committee Charters. Mr. DeBruin, Esq. asked Ms. Brown, Esq. if an auxiliary policy or clarifications are needed. Ms. Brown stated that no addition language or auxiliary policy is needed. Again Mr. DeBruin, Esq. recommended retiring this policy with the understanding that the committees will now create their own agendas and the Chairs of the committees will have a similar power to the Chair of the Full Board in creating the agenda. The committee agreed. Director Barry stated that this policy appears to be redundant and that retirement would be the best option.

8. Board Policy; Bylaws of Palomar Health #59212

	<p><b>MOTION</b> by Director Corrales, 2<sup>nd</sup> by Director Barry to table the Bylaws to</p>	<p>Mr. DeBruin, Esq. to provide information from the older version of the Bylaws to all Board</p>	<p>N</p>
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	<p>allow all Board Committees to develop their respective charters. Roll call voting was utilized:          Director Corrales - Aye          Director Barry - Aye          Director Griffith - Aye</p> <p>All in favor. None opposed.</p>	<p>Committee members for development of their respective charters.</p>	
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**DISCUSSION:** Mr. DeBruin, Esq. introduced Director Barry who had comments regarding this policy. Director Barry stated that the committee charters should be a top priority, and that non-voting members need to be moved to the charters so when changes are made they can go directly to the Full Board and leave the voting members with their overarching duties. Mr. DeBruin, Esq. suggested tabling this policy to allow the committees time to develop their respective charters at their next Board Committee meetings. The older version of the Bylaws can be used to assist the committees in developing the specific duties of each committee. This will help with the committee's vision of limiting basic administrative changes to the Bylaws. Director Griffith stated that the Bylaws should be addressed only every three years as the Bylaws are basically the Board's constitution. It would also be best practice to set up committee charters that would allow for more flexibility and easier use. Director Griffith asked if there would be an educational piece at the next Full Board meeting to inform the Board members about the charter concept and development. Mr. DeBruin, Esq. stated that he believes Director Greer will be making a reference to the charters in her comments at the next Full Board meeting to incentivize the committee chairs to begin their committee charters. Legal can send out the former duties from the older Bylaw version as a template for the committees to establish their charters. Mr. DeBruin, Esq. and Ms. Brown, Esq. offered to help the committees devise effective charters and to make it an expedient process. Mr. DeBruin, Esq. hopes the charters will be done by the next organizational meeting in December 2022. Director Griffith stated that since templates and Bylaws information will be provided to all the committee chairs it will be easier for everyone and charter creation will make Palomar Health more efficient.

9. Creation of Standing Committee Charters

	<p><b>MOTION.</b> No vote required. This was an informational topic for discussion.</p>		N
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**DISCUSSION:** Mr. DeBruin, Esq. had spoken with Director Greer about two issues: 1) did the Governance Committee want the charters to be approved through the Governance Committee before they go to the Full Board or if the committee wants the charters to go directly to the Full Board for approval, and 2) should the specific duties from the older version of the Bylaws be used as a template and given to the committees to establish their own charters; with Legal providing guidance and assistance to the Chairs and Committee Assistants. Mr. DeBruin, Esq. recommended sending the duties to each committee, having each committee create their own charter, and sending the charters to the Full Board for review and approval, bypassing the Governance Committee. He stated that this process could be an informational process only and not require a vote if that is what the committee chose; Director Griffith, Barry, and Corrales could discuss preferences. If the Governance Committee believes this needs to go through the Governance Committee, then the committee could vote on that and then make the recommendation to the Full Board. Ms. Brown, Esq. and Director Griffith both agreed that Mr. DeBruin's, Esq. recommendation of bypassing the Governance Committee was the fastest way to complete this process. Director Barry stated as long as each committee can have Legal's assistance to develop the charters in a proper way, she did not see a need for the charters to go through Governance for review, and it would be best if all the committees worked and completed the charters at the same time. Director Corrales agreed with Director Barry in that the charters don't need to go through the Governance Committee. Director Corrales requested clarification on the complete process of how the charters will be created. Ms. Brown, Esq. stated that the initial starting point will be at the next Full Board meeting on Monday, August 8, 2022 with the Board Chair introducing charter creation. Committee Chairs would then call a Special Meeting, invite Legal and Holland & Knight, and place charter development on the agendas as a drafting session. Before the meeting, the former committee descriptions/duties from the older version of the Bylaws will be circulated to the committee members with perhaps a template. During the drafting session, both Legal and Holland & Knight would attend and listen to all the committee members discuss their various tasks. From this, Ms. Brown, Esq. would create proposed draft charters for each committee and send them to the committee members for review. To speed the process along, the committees should have a set time period to express their comments and review redlines. Legal would then make the final review of all charters to ensure the contents comply with all applicable laws and requirements. Once fully approved by the committees and Legal, the charters would then go to the Full Board for review and approval.

Director Barry asked if she is correct in that her starting point is receiving the description/duties of the Finance committee contained in the Bylaws that was just tabled? Ms. Brown, Esq. clarified that the information will come out of the previous version of the Bylaws, will be sent to each member of the committees, and she will provide a proposed charter. Director Barry mentioned that the non-voting members are still in the Bylaws. Ms. Brown, Esq. stated that the non-voting members will be removed from the Bylaws and placed in the charters. Director Barry stated that it will be great to have the charter describing the Finance Committee's roles and responsibilities. Director Griffith reiterated that all

committees will have a lot of help, and the starting point will be the next Full Board meeting on Monday, August 8, 2022 with the Chair introducing the charter concept. Director Barry thanked Director Griffith for all the clarification and understanding for this project.

**INFORMATIONAL ITEMS**

1. Standing Items

- The Hurst, Brooks, Espinosa Legislative update, dated June 24, 2022 was referenced.

Information Only

Y

**DISCUSSION:** Director Corrales thanked the Committee Secretary for notating the important issues in the Legislative Update that apply to California Healthcare Districts and Palomar Health.

- The Lucidoc List of Board Policies dated July 27, 2022 was referenced.

Information Only

Y

**DISCUSSION:** None

2. RoundTable/Comments

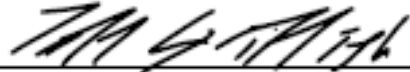
- None

**FINAL ADJOURNMENT**

Meeting adjourned by Director Griffith at 1:10 PM.

**SIGNATURES:**

**ACTING COMMITTEE CHAIR**

  
\_\_\_\_\_  
Jeff Griffith, EMT-P

**COMMITTEE SECRETARY**

  
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Nanette Irwin, BSIT