



**Ventura County Medi-Cal Managed Care Commission (VCOMMCC)  
dba Gold Coast Health Plan**

**Quality Improvement Committee**

**Special Meeting**

**Tuesday, February 28, 2023 3:00 p.m.**

**Due to the public health emergency, the Community Room at Gold Coast Health Plan is currently closed to the public.**

**The meeting is being held virtually pursuant to AB 361.**

**Members of the public can participate using the Conference Call Number below.**

**Conference Call Number: 1-805-324-7279**

**Conference ID Number: 882 086 829#**

**Due to the declared state of emergency wherein social distancing measures have been imposed or recommended, this meeting is being held pursuant to AB 361.**

**AGENDA**

**CALL TO ORDER**

**ROLL CALL**

**PUBLIC COMMENT**

The public has the opportunity to address the Quality Improvement Committee (QIC) on the agenda.

Persons wishing to address the QIC are limited to three (3) minutes unless the Chair of the Committee extends time for good cause shown. Comments regarding items not on the agenda must be within the subject jurisdiction of the Committee.

Members of the public may call in, using the numbers above, or can submit public comments to the Committee via email by sending an email to [ask@goldchp.org](mailto:ask@goldchp.org). If members of the public want to speak on a particular agenda item, please identify the agenda item number. Public comments submitted by email should be under 300 words.

## **FORMAL ACTION**

### **1. In-Person and Teleconferencing Meeting Options under the Ralph M. Brown Act and Assembly Bills 361 and 2449.**

Staff: Scott Campbell, General Counsel

**RECOMMENDATION:** That the Quality Improvement Committee (“QIC”) provide staff with direction as to how the QIC wishes to proceed with QIC meetings going forward.

## **ADJOURNMENT**

Date and location of the next meeting to be determined at the February 28, 2023 meeting.

Administrative Reports relating to this agenda are available at 711 East Daily Drive, Suite #106, Camarillo, California, during normal business hours and on <http://goldcoasthealthplan.org>. Materials related to an agenda item submitted to the Committee after distribution of the agenda packet are available for public review during normal business hours at the office of the Clerk of the Commission.

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact (805) 437-5512. Notification for accommodation must be made by the Monday prior to the meeting by 1:00 p.m. to enable the Clerk of the Commission to make reasonable arrangements for accessibility to this meeting.



## **AGENDA ITEM NO. 1**

**TO:** Quality Improvement Committee

**FROM:** Scott Campbell, General Counsel

**DATE:** February 28, 2023

**SUBJECT:** In-Person and Teleconferencing Meeting Options under the Ralph M. Brown Act and Assembly Bills 361 and 2449.

### **SUMMARY/RECOMMENDATION:**

Receive a report regarding the following in-person and teleconference meeting options available to the Quality Improvement Committee (“QIC”) pursuant to the Brown Act and Assembly Bills 361 and 2449:

1. Continue to make the requisite findings under Assembly Bill 361 to hold meetings remotely in the absence of a declared statewide emergency in response to the COVID-19 pandemic. If this option is followed, the QIC would only be able to continue using AB 361 for teleconference meetings if the QIC makes the findings below by majority vote during today’s meeting, and going forward continues to meet at least every 30 days to make such findings. The QIC must make the following findings:
  - a. The QIC has reconsidered the circumstances of the state of emergency; and
  - b. State or local officials continue to impose or recommend measures to promote social distancing, such rules being the Non-Emergency Rules issued by Cal/OSHA.

As explained below, the QIC may rely on the recent non-emergency rules issued by Cal/OSHA to make the second requisite finding, and if it chooses to do so, it must reference such rules as a continuing basis to meet remotely. Additionally, the QIC may request that meetings held under AB 361 be hybrid meetings, with QIC members who want to attend in person attending such AB 361 meetings.

2. If the QIC decides to not make the findings under Assembly Bill 361, QIC meetings going forward will be conducted pursuant to the traditional Brown Act rules unless the exceptions under Assembly Bill 2449 are invoked.

## **BACKGROUND/DISCUSSION:**

The purpose of this staff report is to provide the QIC with an update regarding the QIC's teleconferencing options under recent amendments to the Ralph M. Brown Act via Assembly Bills 361 and 2449, and to request that the QIC provide staff with direction as to how the QIC wishes to proceed with meetings going forward.

### **I. Teleconferencing under the Traditional Pre-Pandemic Rules**

Traditionally, the Brown Act has allowed for teleconference or virtual meetings, provided that:

- The agenda must be posted at all teleconferenced locations.
- Each teleconference location must be accessible to the public.
- At least a quorum of the legislative body members must participate from within the boundaries of the jurisdiction, except as otherwise allowed by the Brown Act.
- All votes taken must be by roll call.
- Teleconferenced meeting must be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body.
- Notice of the meeting must be given, and agendas must be posted as otherwise required by the Brown Act.
- Each teleconferenced location must be identified in the notice and agenda.
- Members of the public must be provided an opportunity to address the legislative body directly at each teleconferenced location.

### **II. Teleconferencing under Assembly Bill 361**

The traditional teleconferencing rules under the Brown Act were relaxed in response to the COVID-19 pandemic. Since March of 2020 and the issuance of Governor Newsom's Executive Order N-29-20, which suspended portions of the Brown Act relating to teleconferencing, the QIC and most public entities have had virtual meetings without having to post the location of the public officials attending virtually, making all locations accessible to the public and requiring a quorum of the body to be within the jurisdiction. In June of 2021, Governor Newsom issued Executive Order N-08-21, which provided that the exceptions contained in EO N-29-20 would sunset on September 30, 2021.

On September 10, 2021, the Legislature adopted AB 361, which allows public agencies to hold fully virtual meetings dispensing with the traditional teleconferencing procedures under the Brown Act of having to post the location of the legislative body members attending virtually, making all locations accessible to the public and requiring a quorum of the body to be within the jurisdiction, if the public agency makes the determination that there is a

Governor-proclaimed state of emergency which they will consider in their determination, and one of two secondary criteria listed below exists:

- State or local officials have imposed or recommended measures to promote social distancing in connection with COVID-19; or
- The QIC determines that requiring a meeting in person would present an imminent risk to the health or safety of attendees.

The QIC has been making the findings under AB 361 since the onset of the COVID-19 pandemic.

### **III. Teleconferencing under Assembly Bill 2449**

As local agencies saw the effects of the COVID-19 pandemic waning, some local agencies sought the Legislature's assistance in extending the use of the more flexible teleconferencing provisions. What resulted was AB 2449, discussed below.

AB 2449 provides a new teleconferencing option that can be used when a member of the QIC has to attend a meeting remotely due to an emergency or other reasons supported by "just cause." Under these new rules, the QIC may hold a hybrid (partial teleconference, partial in-person) meeting without having to comply with the traditional Brown Act teleconference rules under certain circumstances. These circumstances are:

- Just Cause. One or more QIC members (but less than a quorum) have *notified* the QIC at the earliest opportunity of their need to participate remotely for just cause. Just cause is restricted to:
  1. childcare or caregiving need for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires remote participation;
  2. contagious illness that prevents in-person attendance;
  3. physical or mental disability need not otherwise accommodated by the QIC; or
  4. travel while on official business of the QIC or another state or local agency.

The QIC member must notify the QIC at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the meeting.

- Emergency Circumstance. One or more QIC members (but less than a quorum) experience an emergency circumstance, which is defined as a physical or family medical emergency that prevents in-person attendance, and *requests* to participate remotely. As part of their request, the QIC member must provide a general description

of the circumstances relating to their need to appear remotely; however, they are not required to disclose a medical diagnosis, disability or other confidential medical information. The QIC must then take action on each QIC member's request. The QIC member must make their request to participate remotely as soon as possible, and must make a separate request for each meeting in which they seek to participate remotely. If the request does not allow sufficient time to be placed on the posted agenda for the meeting for which the request is made, the QIC may take action on it at the beginning of the meeting.

There are limitations on the number of times a QIC member may use AB 2449 to participate remotely. Specifically, a QIC member may not participate remotely for "just cause" for more than two meetings in a calendar year and, in general, may not use AB 2449 to participate remotely for more than three consecutive months or 20 percent of the regular meetings for the QIC within a calendar year (or more than two meetings if the QIC regularly meets fewer than 10 times per calendar year). This means that staff would need to keep track of which meetings were attended remotely by which members throughout the year.

In addition to the limitation listed above, in order for the QIC to use teleconferencing under AB 2449, the meeting format and agendas must comply with the following:

- A quorum of the QIC must meet in-person at a single, physical location within the QIC's boundaries
- The QIC must use either a two-way audio-visual system or a two-way phone service with live webcasting.
- The agenda must identify a call-in or internet-based access option for the public, along with the in-person meeting location.
- If a disruption to the online meeting occurs, the QIC may take no further action on agenda items until public access is restored.
- The public must be able to provide comments in real-time. Public comments may not be required to be submitted in advance.
- All votes must be taken by roll call.

In addition, QIC members participating remotely under AB 2449 must comply with the following requirements during the meeting:

- Before any action is taken, the QIC member(s) must disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the QIC member, and the general nature of the QIC member's relationship with any such individuals.
- The QIC member(s) must participate through both audio and visual technology.

Finally, the teleconferencing rules discussed above apply only to situations where one or more QIC members are teleconferencing into a meeting, they do not apply to GCHP staff's attendance.

### **In-Person and Teleconference Options in Light of the Foregoing**

In light of the above, the following in-person and teleconference meeting options are available to the QIC pursuant to the Brown Act and Assembly Bills 361 and 2449:

- 1. Continue to make the requisite findings under Assembly Bill 361 to hold meetings remotely in the absence of a declared statewide emergency in response to the COVID-19 pandemic. If this option is followed, the QIC may only be able to continue using AB 361 for teleconference meetings if the QIC makes the findings below by majority vote during today's meeting, and going forward continues to meet at least every 30 days to make such findings.**

Although AB 361 remains a law through January 1, 2024, Governor Newsom has announced that the declared statewide COVID-19 State of Emergency will end on February 28, 2023. The County of Ventura has announced that the County-wide COVID-19 local emergency will also end on February 28, 2023. If the State of Emergency ends on February 28, 2023, the QIC may only be able to continue using AB 361 for teleconference meetings if the QIC continues to meet at least every 30 days, and by majority vote, makes both of the following findings:

- The QIC has reconsidered the circumstances of the state of emergency; and
- State or local officials continue to impose or recommend measures to promote social distancing.

The QIC may rely on recent regulations issued by Cal/OSHA described below, to satisfy the second requisite finding listed above. If this option is followed, the QIC must make the above findings during today's meeting and reference the non-emergency Cal/OSHA regulations as a continuing basis to meet remotely.

#### *Recently Issued Cal/OSHA Regulations*

On February 3, 2023, a new set of non-emergency COVID-19 prevention regulations issued by Cal/OSHA took effect statewide. The regulations carried over some of the same requirements from the earlier Cal/OSHA COVID-19 Emergency Temporary Standards, and include new employer-facing provisions for worker protection measures. Among other things, these updated COVID-19 reduction measures require employers to develop, implement, and maintain effective policies to prevent transmission of COVID-19 by persons who had close contacts (based on being within six feet of a person confirmed to have COVID-19), and require face coverings in specified instances.

Additionally, under the first option, and upon making the required findings under AB 361, the QIC may also consider adding an “in-person” component such as a hybrid meeting system. This option grants the QIC members who want to attend in person the option and such location would be listed on the agenda. The QIC could decide to allow members of the public to attend such hybrid meetings as well.

**2. If the QIC decides to not make the findings under Assembly Bill 361, QIC meetings going forward will be conducted pursuant to the traditional Brown Act rules unless the exceptions under Assembly Bill 2449 are invoked.**

Alternatively, the QIC may choose to cease making the requisite findings under AB 361 and either return to fully in-person meetings or some QIC members could attend remotely pursuant to the traditional Brown Act Rules discussed in Section (I) of this report. Additionally, there is always the option of individual QIC members attending remotely by invoking the reasons for attending remotely set forth in AB 2449 discussed in Section (III) of this report.

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:**

If the QIC decides to not make the requisite findings under Assembly Bill 361 to continue to meet remotely, the QIC will have to follow the traditional Brown Act rules pertaining to in-person and teleconference QIC meetings that existed prior to the COVID-19 pandemic, or individual QIC members could attend remotely pursuant to the requirements of AB 2449.

**FOLLOW UP ACTION:**

That the QIC provide staff with direction as to how the QIC wishes to proceed with QIC meetings going forward.

**ATTACHMENT:**

None.