



State of California
Edmund G. Brown Jr., Governor

**Board of Chiropractic Examiners
TELECONFERENCE MEETING MINUTES
Government Affairs Committee
April 7, 2016**

Teleconference Meeting Locations

901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355
(Board Staff)

Julie Elginer, DrPH
Agoura Hills Library
29901 Ladyface Circle
Agoura Hills, CA 91301

John Roza, D.C.
800 Douglas Blvd
Roseville, CA 95678

Mr. Frank Ruffino
Department of Veterans Affairs
700 East Naples Court
Chula Vista, CA 91911

Committee Members Present

Julie Elginer, DrPH, Chair
John Roza, D.C.
Frank Ruffino

Staff Present

Robert Puleo, Executive Officer
Dixie Van Allen, Licensing Manager
Marcus McCarther, Policy Analyst

Call to Order

Dr. Elginer called the meeting to order at 10:11 a.m.

Roll Call

Dr. Roza called the roll. All Board members were present at the locations listed on the Agenda.

Approval of Minutes

MOTION: MR. RUFFINO MOVED TO APPROVE THE MINUTES OF THE MARCH 10, 2016 MEETING.

SECOND: DR. ELGINER SECONDED THE MOTION

VOTE: (3-0) (DR. ROZA – AYE, MR. RUFFINO – AYE, DR. ELGINER - AYE)

MOTION CARRIED (3 – 0)

Legislative Update

AB 2744 (Gordon) Healing arts: referrals

Mr. Puleo provided the committee with a summary of AB 2744.

Dr. Elginer asked whether the proposed updates to the Business and Professions Code (BPC) section 650 applied to physicians.

Mr. Puleo responded that BPC 650 applies to all healing arts boards. The Medical Board of California (MBC) is included and the Board of Chiropractic Examiners (BCE) is called out specifically because it was created through an initiative act.

Dr. Elginer explained that Section (f) defines a “health care facility” and inquired whether chiropractic facilities are regulated by the BCE.

Mr. Puleo responded that the BCE does not regulate chiropractor’s facility; so much as it regulates the licensee. The licensee is responsible for the conduct in their office.

Dr. Elginer explained that section (G) clarifies that a payment for advertising pre-paid services does not constitute the referral of patients.

Mr. Puleo shared that he has spoken with many licensees and feels this legislative change is just keeping pace with 21st century technology and is no different than placing an advertisement in the Sacramento Bee. According to Mr. Puleo, the main difference is that this form of advertising is more beneficial to the licensee, as they only pay when services are purchased. Ultimately, consumers are making the decision about what licensee to go with.

Dr. Elginer explained that from a consumer standpoint, the bill states that after consultation a refund may be issued if the services purchased are not appropriate.

Mr. Puleo agreed and shared that consumer protection is still maintained because if an advertisement is fraudulent, it is still a violation for which the Board can discipline a license.

Mr. Puleo shared his hesitation with supporting the bill. He explained that the bill may not provide much benefit to consumers. However, it is his belief that the bill provides clarity on an issue not clarified by DCA or the State Attorney General’s Office and is fair to licensees.

Dr. Roza responded that there is caution among the profession with how licensees attract patients and believes that in this day and age, these services will be used more and more.

Mr. Puleo clarified that the bill would apply to all healing arts professions, including physicians.

Dr. Elginer asked Mr. Puleo if the California Chiropractic Association was supporting the bill.

Mr. Puleo responded that he would follow-up with the association and respond to Committee members via email.

Dr. Elginer replied that she liked the fact that the bill codifies in the law that licensees must provide a refund to consumers if the services purchased are not appropriate. Further, from a Board administrative perspective, having something in law that clarifies a long-standing issue for the board is helpful. Finally, Dr. Elginer shared that she supports a neutral position on AB 2744.

Motion: Mr. Ruffino moved to take a neutral position on AB 2744.

Second: Dr. Roza seconded the motion.

Vote: (Aye: Dr. Elginer, Dr. Roza, Mr. Ruffino)

Motion Passes (3 – 0)

SB 1033 (Hill) Medical Board: disclosure of probationary status.

Mr. Puleo began by explaining to the Committee that SB 1033 was amended to include the BCE into the legislation. However, the amendments were not substantial enough to change the Board's position on the bill. Mr. Puleo shared that the only concern about the bill was that the Legislative Counsel used a one-size fits all approach to drafting the bill and that the bill would need to be amended for clarity and consistency with the chiropractic profession.

Mr. Puleo explained two amendments that would change any reference to the "practice of medicine" to the practice of chiropractic and delete any paragraph that includes a reference to chiropractors "prescribing controlled substances".

Mr. Puleo advised that the bill says that a licensee is not required to disclose probationary status to a patient if he/she is unconscious or otherwise unable to understand the disclosure.

Mr. Puleo asked Dr. Roza whether there would be a situation in which a chiropractor would treat an unconscious patient. Mr. Puleo also explained that this situation would be applicable to an emergency room physician situation and could not imagine a time when a chiropractor has to administer chiropractic care in an emergency situation. Finally, Mr. Puleo stated that BCP section 318.1, Manipulation under Anesthesia, provides the circumstance under which a chiropractor could render services to an unconscious patient. However, these services would not be done in an emergency situation, not with a patient that has not been consulted, and not on the first visit.

Dr. Roza responded in the affirmative. Dr. Roza explained that chiropractors usually do not treat patients that are unconscious except for manipulation under anesthesia.

Mr. Puleo suggested an amendment to the language that would remove subdivision (G).

Mr. Puleo addressed subsection 6. Mr. Puleo explained that he was unsure of when the Board would ever have access to the BreZE system. He stated that staff would need to complete additional research regarding generic language that would allow the Board to place licensee probation information on the Board's website. He shared that staff would work with the author's office and with the DCA to address these concerns.

Mr. Puleo explained to the Committee that none of the changes discussed would change the Board' support for the bill. He said these changes are technical and need to be addressed going forward.

Dr. Elginer stated that current bill language does not address issues of fraud as a reason for notification. She explained that most of the reasons for patient notification deal with departures from clinical care or alcohol or drug problems and inquired why fraud was not included.

Mr. Puleo responded that the bill may not specifically list fraud as a reason for notification but there are various avenues such as a felony conviction related to patient care. Also, Mr. Puleo shared that it is difficult for the Board to substantiate issues related to fraud.

Mr. Puleo explained that if a licensee's behavior was egregious enough that they were required to have a third-party chaperone or monitor, these offense would be disclosed to patients. This would include a billing monitor related to fraud.

Dr. Elginer shared that for consumer protection, the cause for probation should be made clear.

Mr. Puleo responded that there was a good chance the bill would go through additional amendments to address these concerns.

Dr. Elginer commented that the Board plans to attend the Business and Professions Committee meeting the following week.

Mr. Puleo informed the Committee that staff would contact the author's office to express the BCE's desired amendments.

Discussion of Dates for Future Committee Meetings

Mr. Ruffino suggested Thursday, May 5th for the upcoming Committee meeting and the Committee agreed.

Dr. Elginer explained that there are deadlines that the legislature must comply with to move bills forward. She suggested that the Committee schedule multiple meetings in order to keep up with the anticipated legislative activity.

The Committee agreed to June 9th and July 21th for upcoming Committee meeting dates.

Dr. Elginer shared that the Committee members should start thinking about the fall legislative meet and greets.

The Committee agreed to tentatively schedule November 17th and 18th for the fall legislative meet and greet.

Dr. Elginer requested that staff get clarity from DCA's SOLID Unit on when they anticipate the Committee would be able to review the draft strategic plan. She explained that the plan would need to be reviewed in August before the October Board meeting.

The Committee set a tentative review date for some time in the latter part of August.

Public Comment For Items Not On The Agenda

There was no public comment on this agenda item.

Future Agenda Items

There were no future agenda items discussed.

Adjournment

Dr. Elginer adjourned the meeting at 11:06 a.m.