



State of California
Edmund G. Brown Jr., Governor

BOARD OF CHIROPRACTIC EXAMINERS PUBLIC SESSION MINUTES

May 16, 2017

The Department of Consumer Affairs, Headquarters II
1747 N. Market Blvd., Room #186
Sacramento, CA 95834-1924

Board Members Present

Heather Dehn, D.C., Chair
Frank Ruffino, Vice Chair
Sergio Azzolino, D.C., Secretary
Dionne McClain, D.C.
John Roza, Jr., D.C.
Corey Lichtman, D.C.

Staff Present

Robert Puleo, Executive Officer
Spencer Walker, Attorney III
Dixie Van Allen, Staff Services Manager I
Marcus McCarther, Associate Governmental Program Analyst
Mendes, Andreia, Staff Services Analyst
Valerie James, Management Services Technician

Call to Order

Dr. Dehn called the meeting to order at 9:41 a.m.

Roll Call

Dr. Azzolino called the roll. All members were present, except for Dr. Elginer who was absent. A quorum was established.

Pledge of Allegiance

Mr. Ruffino led the Pledge of Allegiance.

Chair's Report

Dr. Dehn introduced Dean R. Grafilo, Director of the Department of Consumer Affairs (DCA).

Moved to Agenda item 10-Update from the Department of Consumer Affairs

Mr. Grafilo acknowledged and thanked the Board Members for their dedication to the profession and is looking forward to working together to protect the consumers of California and improve the practice of chiropractic. Lastly, he highlighted his previous

work experience.

Dr. Dehn shared that she testified with Mr. Puleo at the Joint Legislative Sunset Review Committee hearing on February 27th and provided an overview of the Committees questions asked regarding processing times, the jurisprudence exam and the Boards fund condition. Additionally, the Board will go through the mandated steps and ask the Joint Legislative Committee for a temporary fee increase and work towards a permanent fee increase. She has met with DCA's Budget office for clarification on the Board's fund condition and pro rata cost.

Dr. Dehn provided an update on Board member engagement with stakeholders including California Chiropractic Association (CCA), Federation of Chiropractic Licensing Boards (FCLB), National Board of Chiropractic Examiners (NBCE), and Southern California University of Health Sciences.

Lastly, she encouraged the other Board Members to participate as examiners for the administration of part four of the national exam.

Dr. Dehn introduced CCA's new Executive Director, Dawn Benton, and Government Affairs Director, Jillian Hacker.

Dr. Dehn also introduced Dr. Cynthia Tays, FCLB's District IV Director and past president of the Texas Board of Chiropractic Examiners. Dr. Tays, shared that, like the BCE, the Texas Board is going through the sunset review process and is encountering many of the same enforcement issues as the BCE. Dr. Tays extended an invitation to attend future FCLB meetings.

Approval of Minutes

February 16, 2017

MOTION: MR. RUFFINO MOVED TO APPROVE THE FEBRUARY 16, 2017 MINUTES.

SECOND: DR. MCCLAIN SECONDED THE MOTION

Discussion:

Dr. Azzolino stated that he didn't adjourn the meeting and suggested a correction to page 8- Adjournment change "Dr. Azzolino" to "Dr. Dehn"

MOTION: DR. DEHN MOVED TO APPROVE THE FEBRUARY 16, 2017 MINUTES AS AMENDED.

SECOND: DR. AZZOLINO SECONDED THE MOTION

VOTE: 6-0 (DR. AZZOLINO-AYE, DR. DEHN-AYE, DR. LICHTMAN-AYE, DR. MCCLAIN-AYE, DR. ROZA-AYE, MR. RUFFINO-AYE)

MOTION: CARRIED

Executive Officer's Report

Mr. Puleo referred to the organizational chart and announced that the Board is fully staffed. He introduced the Board staff that were present and thanked them for their ongoing support.

Mr. Puleo provided an update on the Board's fund condition and the balance remaining on the loan from the Bureau of Automotive Repair. He shared that he met with the Department of Consumer Affairs (DCA) Budget Office to discuss the Board's declining fund condition and explained that the decrease in the Board's fund is due to a number of factors, including, an increase in statewide pro-rata and a slight decrease in revenue due to a gradual decline in the licensee population.

Mr. Puleo introduced Marina O'Connor, Wilbert Rumbaoa, and Kevin Driskill from DCA's Budget Office.

Ms. O'Connor referred to the FY 2016-17, expenditure projection document in the Board's packet and provided an overview of the Board's expenditures. She explained that the Board has a projected surplus of 1.8 percent and is on track to stay within its appropriation this FY.

Mr. Puleo emphasized that the Board is staying within its operating budget and the fund is not depleting due to excessive spending. In fact, the Board regularly reverts money to the fund at the end of the fiscal year, which has helped defer the need to increase fees. However, the increasing gap between revenue and expenditures has led to a decline in the fund.

Dr. Dehn suggested that staff obtain a list from the budget office that details the statewide pro-rata services. She shared her concerns on the pro-rata increase from FY 2015-16 to FY 2016-17. Additionally, she requested clarification on whether the expenses will level out once the board transitions to BreEZe.

Dr. Azzolino inquired about the timeline for the implementation of BreEZe and expressed his concerns regarding the development expenses the Board has already incurred.

Mr. Puleo shared that the Legislature requires the Board to have a process analysis to determine business needs prior to moving forward with any IT project. The Organizational Change Management (OCM) unit within SOLID will oversee the mapping of all of the Board's current processes. Additionally, he met with Jason Piccione, the Deputy Director of OIS and feels confident that BreEZe will fulfill the IT needs of the Board. Lastly, he is optimistic that the Board will transition to a new IT system within a year of completing the process analysis.

Mr. Driskill shared that Board's and Bureaus were provided an annual pro rata guide that provides valuable information about the support and services that DCA delivers, how those costs are distributed, and who to contact for those services.

Ms. O'Connor provided an overview of the pro rata amounts for FY 2016-17 and explained that the amounts are what the Board is budgeted to spend; however, it can be more or less, which can result in a savings to the Board. Additionally, the Budget Office reviews the Board's actual expenditures on a quarterly basis and noted that the Board can never be charged more than what the budgeted amount.

Mr. Driskill explained that in September, the budget office would be able to see the projected statewide pro rata amounts for FY 2018-19.

Mr. Puleo shared that he is currently working with the Legislature and DCA's Budget Office to enact a temporary renewal fee increase through a Sunset Bill or Omnibus Fee Bill. The temporary renewal fee increase will ensure that the Fund remains solvent until the Board has had an opportunity to conduct an audit of all existing fees and adopt a comprehensive fee regulation. Mr. Puleo anticipates these tasks taking approximately three years and has asked the Budget Office to determine how much additional revenue would need to be generated to keep the Fund solvent in the meantime.

Ms. O'Connor referred to the FY 2017-18 Governor's Budget fund condition scenarios and explained the revenue projections based on fee increases of 10%-50% on all the categories so that the Board's fund can remain solvent for several years.

Mr. Rumbaoa provided an overview of the fund condition scenarios with fee increases of percentages 10%-50% and included assumptions that would generate revenue to sustain the Board's fund. He concluded a 20% increase would keep the Board's fund solvent until FY 2021-22.

Mr. Puleo emphasized that, initially, we would only raise the renewal fee. The remaining fees as well as the renewal fee would ultimately be adjusted based on the audit determinations.

Dr Dehn asked if the loan repayment to the Bureau of Automotive Repair (BAR) was included in the assumptions.

Mr. Rumbaoa responded that the repayment to BAR was included in the assumptions it also assumes that the license population remains steady.

Dr. Dehn asked about the next steps for the fee increase. Specifically, who will decide on the percentage and will this amount require a vote by the board.

Mr. Puleo responded that he is currently working with DCA's Budget Office and with staff at the Senate & Assembly Business and Profession Committees to schedule a meeting to discuss the possibilities of placing a temporary increase in one of their bills.

Additionally, staff has completed the Assembly B&P Fee Worksheet, which requests background information in support of the requested increase.

Mr. Puleo summarized the Board's licensing statistics and stated that there were no significant changes in the licensee population.

Mr. Puleo summarized the Board's enforcement statistics and provided a brief overview of enforcement activity since the last Board Meeting.

Dr. Azzolino requested clarification on the fines amounts for citations.

Mr. Puleo provided an overview on the process for assessing fines on citations.

Dr. McClain requested clarification on trends of violations that result in an issuance of a citation issued.

Mr. Puleo responded that each year is different and it is somewhat difficult identify trends in a specific type of violation.

Dr. McClain asked if we could place information about deceptive advertising violations regulation on the Board's social media sites.

Dr. Dehn suggested that the enforcement committee work on strategic plan goal 2.4.1 to create an outreach document that provides information on potential violations resulting from social media activity.

Dr. Roza asked if we ran a report of the amounts of fines owed to the Board.

Mr. Puleo explained that unpaid fines are submitted to the Franchise Tax Board (FTB) for collection. Additionally, he provided an overview of the cost recovery processes for citations and disciplinary actions. Lastly, he shared that overall the Board recovers most costs associated with citations and disciplinary actions.

Mr. Puleo directed the Board's attention to letter inviting the Pastoral Medical Association to provide an overview of its role in health care administration at a future Board meeting. He noted that, to date, he has not received a response.

Mr. Puleo shared that staff is currently working with DCA to enable licensees to submit their renewal payments online.

Mr. Puleo provided a brief overview of the BCE's testimony at the hearing.

Mr. McCarther shared that the Sunset Review report, along with the Board's responses to questions from the Joint Sunset Review Committee is available on the Board's website.

Mr. Puleo referred to the Board's Strategic Plan and shared that the document is available on the Board's website.

Dr. Dehn requested that the Committees look over the strategic plan and start to work on their respective goals.

Ratification of Approved License Applications

MOTION: DR. AZZOLINO MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS.

SECOND: DR. LICHTMAN SECONDED THE MOTION

VOTE: 6-0 (DR. AZZOLINO-AYE, DR. DEHN-AYE, DR. LICHTMAN-AYE, DR. MCCLAIN-AYE, DR. ROZA-AYE, MR. RUFFINO-AYE)

MOTION: CARRIED

The Board ratified the attached list of approved license applications incorporated herein (Attachment A).

Ratification of Approved Continuing Education Providers

MOTION: DR. LICHTMAN MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDERS.

SECOND: MR. RUFFINO SECONDED THE MOTION

VOTE: 6-0 (DR. AZZOLINO-AYE, DR. DEHN-AYE, DR. LICHTMAN-AYE, DR. MCCLAIN-AYE, DR. ROZA-AYE, MR. RUFFINO-AYE)

MOTION: CARRIED

The Board ratified the attached list of approved continuing education providers incorporated herein (Attachment B).

Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing

There were no denied license applications.

Introduction of California Chiropractic Association's (CCA) new Executive Director, Dawn Benton and Director of Government Relations, Julian Hacker.

Ms. Benton announced that the CCA publishes a weekly newsletter and stated she is looking forward to working with the Board. She offered to distribute any information we would like to share with their members.

BCE Licensing, Continuing Education (CE) & Public Relations Committee Meeting Update

Dr. McClain shared that the committee is currently working on Strategic Plan goal 1.1 (interfacing with the Council on Chiropractic Education to explore entrance requirements at chiropractic colleges). The Committee has made progress on proposed revisions to the existing CE regulations. Dr. McClain stated that the Committee would like to move ownership of Strategic Plan goal 1.7 (evaluate and make a determination about amending the Chiropractic Practice Act) to the Executive Officer and Board Chair and/or the Executive Committee.

The Committee is considering alternatives to the current CE regulations (Sections 360-366 of Title 16 of the California Code of Regulations). In an effort to build a foundation and streamline the revisions to the Board's current CE regulations, the Committee reviewed Arizona's CE regulations and application as a possible model.

Dr. McClain requested each Board member to email responses to the following questions to Mr. Puleo by the end of May:

- What do you believe is the purpose of CE?
- What competencies are necessary for a licensed chiropractor to safely practice?
- How much CE is necessary to ensure minimum competence?
- Are the Arizona's CE regulations a good model?
- Mandatory vs. Elective subjects?

Dr. McClain would like to know if the other Board Members believe the Arizona language would be a good model to use for amending the Board's current CE regulations.

Dr. Dehn stated that the purpose of CE is to ensure that licensees maintain minimum competency. She believes the Arizona regulation is a good model and that our current 24 hour CE requirement is appropriate.

Dr. Azzolino shared that licensees need to continually advance in the profession. He believes that the Arizona Regulation is a good model and that CE is a great way for the Board to be proactive in ensuring protection of the public.

Mr. Ruffino concurs with the previous comments and encouraged the Board to consider the minimum competency.

Dr. Lichtman agreed with the previous comments and stated that the purpose of CE is to increase the knowledge and skills of licensees.

Mr. Puleo noted that applicants must demonstrate a minimum level of competency before receiving their Chiropractic License. He stated that the Board needs to demonstrate the necessity and justify any proposed amendments to current regulations. He further suggested adding a requirement for new licenses to attend of at least one board meeting.

Dr. Roza agreed that the Arizona CE regulation is a good model, the current 24-hour requirement is good and that he will answer the questions in an email to Mr. Puleo.

Dr. McClain shared that there are benefits to allowing electives to meet the needs of the current trends in elective subjects.

Mr. McCarther requested that Board members also provide their ideas on core competencies they believe should be included in the proposed CE language.

Legislative Update

Mr. Ruffino updated the Board on the status of SB 746 (Portantino). He noted that this bill was a reintroduction of AB 1992, which failed passage in the prior legislative session. SB 746 was pulled by its author prior to its hearing in the Senate Education Committee. The author's office has stated that they will not be moving the bill forward during the current session.

Mr. Ruffino stated that the Committee will continue to monitor bills that would have a potential impact on the Board. However, no bills require the Board to take a position at this time.

Dr. Dehn inquired about updates on scheduling the annual meet and greets with Legislative staff (action item 3.2.1 of the strategic plan). She inquired whether the Committee has agendaized goal 3.1 (establish a process to utilize media outlets to strengthen Board relationships with media and to increase public awareness of Board functions).

Mr. Ruffino responded that the legislative meetings will be scheduled in November 2017 and that strategic plan goal 3.1 is a continuous discussion of the Committee. These items will be placed on the agenda for the next Committee meeting.

Mr. McCarther shared that the Committee will meet with DCA's Deputy Director of Communications to discuss resources that the Board can utilize for social media.

Update on Pending Regulations

Mr. McCarther referred to the "BCE List of Prioritized Proposed Regulatory Changes". He provided an update on three regulation packages. On May 3rd the Board received notification from the Office of Administrative Law (OAL) that our Application for Licensure Rulemaking File (CCR Sections 321 & 364) had been denied. He stated that the board can resubmit this rulemaking package within 120 days of the disapproval decision and that the necessary changes are under review with the Board's staff and legal counsel.

Mr. McCarther added that the Uniform Standards for Substance Abusing Licensees and the Disciplinary Guidelines packages would be combined as advised by Mr. Walker.

Mr. McCarther stated that staff is currently working on the following proposed regulatory changes: Delegation of Authority to the Assistant Executive Officer regulation (CCR Sections 306, 389, 390.4 & 390.5); CPR; and Consumer Protection Enforcement Initiative (CCR Sections 303, 304, 306.3, 308.1, 312, 314, 317.2, 317.3, 321.1, 384.1, 390.7, 390).

Mr. McCarther added that staff would review all pending rulemaking packages in light of the recent disapproval decision.

Dr. Dehn requested clarification on whether staff needed input/assistance from the Enforcement Committee to complete the CPEI regulation.

Mr. McCarther responded that staff would notify the committee if their expertise was needed to complete this regulation.

Public Comment for items not on the Agenda

Dr. Ricco Nel requested clarification regarding online CE requirements.

Mr. Walker informed Dr. Nel that the Board cannot discuss this matter and recommended he direct his questions to the Board's staff following the meeting.

Move to agenda item 11- BCE Licensing, Continuing Education (CE) & Public Relations Committee Meeting Update

Jillian Hacker from CCA will continue to compile comments and feedback from CCA Members regarding Arizona's CE requirements and will email that information to Mr. Puleo by the end the month.

Dr. Tays commented that the Texas Board has experienced enforcement issues related to the Pastoral Medicine Association; she provided a handout on FCLB's Providers of Approved Continuing Education (PACE) program and explained that they have qualified people to review CE courses and credential CE providers. She added that the Texas Board's enforcement activity has decreased as a result of the recent changes in the CE requirements, which require 4 hours of ethics, including documentation and review of the Texas Board's rules.

Future Agenda Items

There was none.

Hearings Re: Petition for Reinstatement of Revoked License

Administrative Law Judge, Julie Cabos-Owen, presided over and Deputy Attorney General, Malissa Siemantel, appeared on behalf of the people of the State of California on the following hearing:

A. Michael E. Bystrom

Hearings Re: Petition for Early Termination of Probation and /or Reduction of Penalty

Administrative Law Judge, Heather M. Rowan, presided over and Deputy Attorney General, Malissa Siemantel, appeared on behalf of the people of the State of California on the following hearing:

A. Charles E. Richardson, D.C.

Closed Session

Following oral testimonies, the Board went into Closed Session for deliberation and determinations regarding:

- A. Deliberate on Disciplinary Decisions and Petitions Pursuant to California Governmental Code Section 11126(c)(3)
- B. Closed Session to receive advice from Legal Counsel Pursuant to California Government Code Section 11126(e) regarding:
 - 1) Hugh Lubkin, D.C. v. Board of Chiropractic Examiners
Workers' Compensation Case No. ADJ7361379

Open Session

The Board went back into Open Session.

Adjournment

Dr. Dehn adjourned the meeting at 3:43 p.m.

(ATTACHMENT A)

**Approval By Ratification of Formerly Approved License Applications
January 1, 2017 - March 31, 2017**

Name (First, Middle, Last)			Date Issued	DC#
Jaymee	Delima	Damaso	1/4/2017	33772
Danielle	Marie	Chiu Liu	1/12/2017	33773
Julia	Christine	Radwanski	1/12/2017	33774
Wei		Xia	1/12/2017	33775
Gagandeep	Singh	Bal	1/13/2017	33776
Nicole	Cherise	Foster	1/13/2017	33777
Grace	Wadih	Kozal	1/13/2017	33778
Emily	Dodds	Mickle	1/13/2017	33779
Ali		Mousavi	1/13/2017	33780
Di		Wu	1/13/2017	33781
Christopher	Douglas	McLaine	2/3/2017	33782
Fredrick	Lee	Polizo	2/3/2017	33783
Jack	Peter	Fearn	2/8/2017	33784
Cesar		Quintana	2/8/2017	33785
Timothy	Jason	Gudilin	2/9/2017	33786
Mandy	Marlene Jobe	McManis	2/9/2017	33787
Mason	Galen Michael	Morris	2/9/2017	33788
Alexine	Melissa	Stickney	2/9/2017	33789
Yu		Wang	2/9/2017	33790
Duke	James	Austill	2/10/2017	33791
Tanya	Limtiaco	Castro	2/10/2017	33792
Amy	Catherine	Pohle	2/10/2017	33793
Jeremy	Paul	Ahrendt	2/22/2017	33794
Alicia	Mercedes	Alvarenga	2/22/2017	33795
Nicholas	Anthony	Deliberato	2/22/2017	33796
Steven	S	Bordunov	2/27/2017	33797
Austin	Taro	Quon	2/27/2017	33798
Dawn	Anne	Runge	2/27/2017	33799
Stephen	Michael	Stylianides	2/27/2017	33800
Tara	Marie	Anguiano	2/27/2017	33801
Lucas	Kasen	Hayes	2/27/2017	33802
Kelly		Ostler	2/27/2017	33803
Heidi	Mei-Ting	Chang	3/8/2017	33804
Tony		Ly	3/8/2017	33805
Andrea	Kathleen	Ormonde	3/8/2017	33806

Casey	Alexandra	Wisniewski	3/8/2017	33807
Nabeel		Fargo	3/9/2017	33808
Paula	Michelle	Hardy	3/9/2017	33809
Jordan	Gilbert	Perona	3/9/2017	33810
Derek		St Thomas	3/9/2017	33811
Kristin	Lee	Wimp	3/9/2017	33812
Fabiana		Goncalves	3/10/2017	33813
Jane	Hyun	Kim	3/10/2017	33814
Eli		Navarrete	3/10/2017	33815
Ryan	Lee	Silbernick	3/10/2017	33816
Courtney	Elyce	Wilson	3/10/2017	33817
Boris		Cicak	3/15/2017	33818
Trevor	King	Crossley	3/15/2017	33819
Nadia	Riadh	Fakhoury	3/15/2017	33820
Joon Myung		Kim	3/15/2017	33821
Brittni	Lee	Melnychuk	3/15/2017	33822
Mikhael	Alexander	Shifrin	3/15/2017	33823
Benjamin	Gordon	Benulis	3/16/2017	33824
Nicole	Casse	Platte	3/16/2017	33825
Tyler	Bates	Poland	3/16/2017	33826
Ryan	Glenn	Cason	3/16/2017	33827
Jason		Nguyen	3/17/2017	33828
Marisa	Alysha	Sum	3/17/2017	33829
Michael	Joseph	Dardano	3/21/2017	33830
Marina		Nikiforova	3/21/2017	33831
Tanin		Khademi	3/22/2017	33832
Sara	Diane	McHardy	3/22/2017	33833
Michael	Thomas	Fanning	3/28/2017	33834
Joshua	Lynn	Marcus	3/28/2017	33835
Tanya	Amelie	Simard	3/28/2017	33836
Ryan	David	Braverman	3/28/2017	33837
Anna	Bianca	Hernandez	3/29/2017	33838
Erick	Rene	Perez Montiel	3/29/2017	33839
Kathleen	Ann	Rooney	3/29/2017	33840
Joseph	Donald	Dietrich	3/30/2017	33841
Edward	Emiliano	Espinoza Jr.	3/30/2017	33842
Kendra	Colleen	Glendenning	3/30/2017	33843
Mohamed	Elsayed	Hassanin	3/30/2017	33844
Ranvir	Singh	Sahota	3/30/2017	33845
Shanelle	Nicole	Furner	3/30/2017	33846

(ATTACHMENT B)

Ratification for New Continuing Education Providers

CONTINUING EDUCATION PROVIDERS	DATE APPROVED
1. Koh Education, DC	05/16/17
2. Curtis Turchin, DC	05/16/17
3. Mohsen Khamessipour	05/16/17
4. Greg Melvin, DC	05/16/17
5. Total Health Center	05/16/17
6. Center for Pain & Stress Research	05/16/17
7. California College of Natural Medicine	05/16/17
8. Chiro Hours	05/16/17
9. CHIROJAM.COM	05/16/17
10. Curtis Martin, DC	05/16/17
11. Smart Tools	05/16/17