



**Board of Chiropractic Examiners
TELECONFERENCE MEETING MINUTES
Government & Public Affairs Committee Meeting
April 13, 2021**

Teleconference Meeting

Committee Members Present

Frank Ruffino, Public Member
Rafael Sweet, Public Member

Staff Present

Robert Puleo, Executive Officer
Kristin Walker, Assistant Executive Officer
Dixie Van Allen, Staff Services Manager I
Michael Kanotz, Attorney III
Andreia McMillen, Policy Analyst
Amanda Campbell, Continuing Education Analyst

1. Call to Order Call to Order & Establishment of a Quorum

Mr. Ruffino called the meeting to order at 2:00 p.m.

Mr. Sweet called roll. All members were present. A quorum was established.

2. Public Comment on Items Not on the Agenda

No Discussion.

3. Approval of Meeting Minutes

May 21, 2018
March 26, 2019
August 27, 2019

**MOTION: MR. RUFFINO MOVED TO APPROVE MINUTES OF THE MAY 21st, 2018
GOVERNMENT & PUBLIC AFFAIRS COMMITTEE MEETING.**

SECOND: MR. SWEET SECONDED THE MOTION.

Discussion: Mr. stated Ruffino he would abstain from approving the minutes because he did not participate in the meeting.

Public Comment: There was none.

**VOTE: 1 - 0, (MR. RUFFINO – ABSTAIN, MR. SWEET – AYE)
MOTION CARRIED.**

MOTION: MR. SWEET MOVED TO APPROVE MINUTES OF THE MARCH 26th, 2019 AND AUGUST 27th, 2019 GOVERNMENT & PUBLIC AFFAIRS COMMITTEE MEETING.

SECOND: MR. RUFFINO SECONDED THE MOTION.

No Discussion.

Public Comment: There was none.

**VOTE: 2 - 0, (MR. RUFFINO – AYE, MR. SWEET – AYE)
MOTION CARRIED.**

4. Review, Discussion and Possible Action Regarding the Board Member Administrative Procedure Manual

Mr. Puleo led the discussion on proposed changes to the Board Member Administrative Procedure Manual (BMAPM).

- Page 2

Mr. Puleo referred to the list of Board members and stated it has been updated to reflect the names of recently appointed members to the Board.

- Page 5

Mr. Puleo noted there were proposed changes regarding the list of state acronyms. Specifically, he suggested removing the reference to Business & Professions Code and replacing it with adding "Business and Professions (B&P)". Additionally, he proposed removing the reference to the Department of Insurance.

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Mr. Puleo referred to the section on "General Rules of Conduct", third paragraph, "When possible, the Board Chair, in consultation with the Vice Chair, shall determine which Board members have expertise in respective areas to act as spokesperson for the Board." Mr. Puleo proposed including the EO to reflect the following: "in consultation with the Vice Chair and EO".

Mr. Puleo referred to the last sentence on page 6, "All consumers, applicants and licensees with enforcement related questions, concerns or complaints should be referred to the EO or Chair." He suggested removing "Chair".

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Under the "Role of Board Officers" heading, Mr. Puleo clarified that the Board Chair should consult with the Secretary and EO when approving meeting agendas.

Mr. Puleo referred to the section on Vice-Chair duties regarding the EO's annual evaluation process and proposed adding "The Vice-Chair, in consultation with DCA's Office of Human

Resources, and in accordance with departmental policy, coordinates the EO annual evaluation process...”.

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Mr. Puleo recommended combining the following sections together 1) “Board Meetings and Offices” and 2) “Board Meetings”.

- Page 10

Under the “Agenda Items” heading, Mr. Puleo proposed removing the last sentence, “The Board Secretary will work with the EO to finalize the agenda.”

- Page 11

Mr. Puleo referred to the section on “Bagley-Keene Open Meeting Act” and proposed removing it from the procedure manual.

- Page 12

Mr. Puleo referred to the section regarding “Record of Meetings” and pointed out the reference to all original video and audio recordings be maintained and archived indefinitely and never destroyed.

Discussion: He clarified that staff would further research this matter to determine whether this provision is consistent with the Board’s records retention policy to maintain those records indefinitely.

Mr. Ruffino inquired whether the Board’s policy on retention of records differs from other boards and bureaus under DCA.

Mr. Puleo explained that each board consults with DCA in developing their record retention schedule. However, boards have their own individual retention schedule.

Mr. Ruffino asked to discuss the Board’s retention schedule at the next Board meeting.

Mr. Puleo stated he is unaware of such matter ever being presented to the Board for approval. He shared that Board staff are currently reviewing the retention schedule and will consult with legal counsel in the near future.

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Mr. Puleo referred to the section on “Recording” and questioned whether it is appropriate to place audio and video recorded by the public or any other entity on the Board’s website.

Discussion: Mr. Ruffino suggested including a provision regarding minors testifying in a public setting.

Mr. Puleo stated that staff and legal counsel will explore this topic further to determine the best course of action.

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Under the “Travel Arrangements” heading, Mr. Puleo suggested adding a reference to DCA’s Travel Guide (included in the Committee Meeting materials).

- Page 19

Mr. Puleo referred to the section on “Committee Appointments”, second paragraph, “Committee members shall appoint the Chair of their respective committee. If a disagreement arises, the Committee members shall consult with the Board Chair, the Vice Chair and the EO.”

Discussion: Mr. Puleo inquired whether this is a violation of the Bagley-Keen Act.

Mr. Kanotz responded that clarification is needed as this provision can lead to Board members having a meeting outside of Bagley-Keene.

Mr. Kanotz advised the Committee that it would be appropriate to bring this matter forward to a subsequent meeting or simply remove the provision from the procedure manual.

Mr. Puleo recommended adding a section regarding the selection of a committee Chair as the Board does currently have a procedure to address disagreements in this regard.

Mr. Ruffino stated this provision causes confusion and agreed with Mr. Kanotz suggestion to remove it from the procedure manual.

Mr. Sweet concurred.

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Under the “Government and Public Affairs Committee” subheading, Mr. Puleo suggested removing the reference to 2013.

Discussion: Mr. Puleo asked the Committee how frequently the Board should receive such updates on the Strategic Plan.

Mr. Ruffino stated it would be appropriate to report this information to the Board once a year.

Mr. Sweet recommended adding a provision allowing the Committee to report progress on the Strategic Plan to the Board on an-as needed basis.

Mr. Puleo shared that the Board does not currently have an active Strategic Plan. However, once it’s active, he suggested discussing the Strategic Plan at every committee meeting and report any updates to the Board once a year or as needed.

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Mr. Puleo referred to the section on “Board Member Written Correspondence and Mailings”. Mr. Puleo inquired whether the Committee wished to clarify that any approved correspondence should be distributed to all the Board members.

Mr. Ruffino and Mr. Sweet had no objections.

Mr. Puleo referred to the section on “Request to Access Licensee or Applicant Records”. He inquired whether it would be appropriate for Board members to have unrestricted access to confidential information under any circumstances.

Discussion: Mr. Puleo stated this section raises concerns because, as currently drafted, it is unclear whether a Board member would have the ability to access a licensee or applicant’s information that is not publicly available.

Mr. Ruffino proposed revising the first sentence of this section to reflect the following: “Board Members shall not access a licensee’s, or applicant’s file without the EO’s knowledge and legal counsel approval. He also suggested removing the second sentence “Records or copies of records shall not be removed from the Board’s office at any time”

Mr. Sweet agreed with Mr. Ruffino’s assessment.

Mr. Kanotz stated it is unclear whether this section pertains to disciplinary matters. He explained it would be only be appropriate for a Board member to access a licensee or applicant’s file when discussing disciplinary action. Furthermore, he noted disciplinary information would not need to be accessed via the licensee or applicant’s paper file because is made available to the public on the Board’s website.

Mr. Kanotz advised the Committee that it would be appropriate to remove the section in its entirety.

Mr. Ruffino and Mr. Sweet had no objections.

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Mr. Puleo referred to the section on Press Statements and Contacts, “When possible, the Board Chair, in consultation with the Vice Chair, shall determine which Board members have expertise in respective areas to act as spokesperson for the Board.” He proposed including the EO to reflect the following: “...in consultation with the Vice Chair and EO”.

Mr. Ruffino requested an update on the process to issue BCE identification cards.

Mr. Puleo stated that the Board’s ability to produce any type of official badge is limited. However, staff will follow up with DCA to facilitate this process.

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Under the “Executive Officer Evaluation” heading, Mr. Puleo proposed referencing DCA’s policy for EO evaluations.

Under the “Board Examination Heading”, Mr. Puleo suggested removing a reference to the EO as an instrument of the Board and replacing it with “the EO as an agent of the Board”. The same changes would apply to the section on Board Staff.

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Mr. Puleo proposed changing the “Periodic Fee Audit” heading to “Period Fee Analysis”. Additionally, he suggested removing the reference to “using the 2017 methodology” as it refers to the last fee analysis conducted by the Board.

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Under the “Various Other Tasks and Responsibilities” heading, Mr. Puleo referred to the following sentence: “This process shall be overseen by the Vice Chair in consultation with the Chair” and proposed adding, “...in consultation with the Chair and EO”.

Under the “Terms and Removal of Board Members” heading, Mr. Puleo suggested removing the reference to “January 2, 1974”.

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Under the “Resignation of Board Members (Board Policy)” heading, Mr. Puleo stated staff would contact the Governor’s Office of Appointments and ask if there is a written policy on the resignation of Board members. It would be beneficial to reference their policy under this section.

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Under the “Request for Grants” heading, Mr. Puleo indicated the Board has never requested grants and it is unclear why this section is included in the procedure manual.

Discussion: Mr. Kanotz advised removing this provision.

Mr. Ruffino and Mr. Sweet had no objections.

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Mr. Kanotz pointed out that the citation under “ The Honoraria Prohibition” heading is incorrect. He proposed removing the reference to Government Code section 89503 and replace it with “89502”.

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Mr. Puleo referred to the section on “Injury to a Board Member” heading and clarified that Board members are considered state employees. Therefore, he inquired whether Labor Code section 4600 is consistent with an injury to a Board member being handled the same as an injury to a staff person.

Mr. Kanotz stated this section should be conformed to DCA’s policy for reporting injuries. He proposed removing the language from this section, and instead, add a reference to DCA’s policy for reporting injuries.

MOTION: MR. RUFFINO MOVED TO RECOMMEND TO THE FULL BOARD THE ADOPTION OF THE REVISED BOARD MEMBER ADMINISTRATIVE MANUAL PROCEDURE.

SECOND: MR. SWEET SECONDED THE MOTION.

Discussion: None

Public Comment: There was none.

**VOTE: 2-0 (MR. RUFFINO – AYE, MR. SWEET – AYE)
MOTION CARRIED.**

5. Review, Discussion and Possible Action Regarding the Legislative Bill Tracking Manual

Mr. Puleo provided the Committee with a brief overview of minor changes made to the Legislative Bill Tracking Manual.

MOTION: MR. SWEET MOVED TO APPROVE THE LEGISLATIVE BILL TRACKING MANUAL.

SECOND: MR. RUFFINO SECONDED THE MOTION.

Discussion: None

Public Comment: There was none.

**VOTE: 2-0 (MR. RUFFINO – AYE, MR. SWEET – AYE)
MOTION CARRIED.**

6. Review, Discussion and Possible Action Regarding AB 29 (Cooper) State Agencies: Meetings

Ms. McMillen provided the Committee with a summary of AB 29.

Mr. Puleo stated staff is supportive of the intent of this bill to make available any relevant materials for a noticed meeting. However, there is a number of minor concerns that could possibly prohibit the Board from discussing and providing the most recent information available

at Board meetings.

Mr. Sweet inquired about the likelihood of this bill being amended.

Mr. Puleo stated will likely be amended. He explained this bill would impact all state agencies and it is likely that other programs will share the same concerns.

Ms. McMillen added that in previous legislative sessions, similar bills had been introduced and amended as they moved through the legislative process.

Mr. Ruffino inquired whether this bill would result in additional workload for Board staff.

Mr. Puleo clarified that this bill would may not have a fiscal impact upon the Board. However, it would possibly prevent the Board from providing and discussing the most recent information available at board meetings.

The committee agreed to take a "WATCH" position on this AB 29.

MOTION: MR. RUFFINO MOVED TO RECOMMEND A WATCH POSITION ON AB 29.

SECOND: MR. SWEET SECONDED THE MOTION.

Discussion: None

Public Comment: There was none.

VOTE: 2-0 (MR. RUFFINO – AYE, MR. SWEET – AYE)

MOTION CARRIED.

7. Review, Discussion and Possible Action Regarding AB 339 (Lee) State and Local Government: Open Meetings

Ms. McMillen provided the Committee with a summary of AB 339.

Mr. Puleo expressed concern over the cost of providing increased access through technology and of providing translation services in multiple languages. Board staff will need more time to determine the actual impact.

MOTION: MR. RUFFINO MOVED TO RECOMMEND A WATCH POSITION ON AB 339.

SECOND: MR. SWEET SECONDED THE MOTION.

Discussion: None

Public Comment: There was none.

VOTE: 2-0 (MR. RUFFINO – AYE, MR. SWEET – AYE)

MOTION CARRIED.

8. Review, Discussion and Possible Action Regarding AB 646 (Low) Department of Consumer Affairs: Boards: Expunged Convictions

Ms. McMillen provided the Committee with a summary of AB 646.

Mr. Puleo shared that staff is supportive of the intent of this bill to reduce employment barriers for people who have been rehabilitated. However, this bill could potentially undermine the Board's consumer protection mandate if disciplinary information available to the public is limited.

MOTION: MR. SWEET MOVED TO RECOMMEND A WATCH POSITION ON AB 646.

SECOND: MR. RUFFINO SECONDED THE MOTION.

Discussion: None

Public Comment: There was none.

**VOTE: 2-0 (MR. RUFFINO – AYE, MR. SWEET – AYE)
MOTION CARRIED.**

9. Review, Discussion and Possible Action Regarding AB 1236 (Ting) Healing Arts: Data Collection

Ms. McMillen provided the Committee with a summary of AB 1236.

Mr. Puleo stated this bill would likely result in additional workload and expenses for the Board. Board staff will need more time to determine the actual impact and whether there are efficient and cost-effective methods of collecting and reporting the information identified in the bill.

Mr. Ruffino inquired whether this bill would require an additional position to meet new data collection requirements.

Mr. Puleo informed the Committee that it is difficult to know if an additional position would be required because the actual impact is unknown. However, once more information is available, we will be able to make that determination.

MOTION: MR. SWEET MOVED TO RECOMMEND A WATCH POSITION ON AB 1236.

SECOND: MR. RUFFINO SECONDED THE MOTION.

Discussion: None

Public Comment: There was none.

**VOTE: 2-0 (MR. RUFFINO – AYE, MR. SWEET – AYE)
MOTION CARRIED.**

10. Review, Discussion and Possible Action Regarding AB 1386 (Cunningham) License Fees: Military Partners and Spouses

Ms. McMillen provided the Committee with a summary of AB 1386.

This bill would require boards under the Department of Consumer Affairs (DCA) to waive license fees for partners and spouses of active military members.

Mr. Puleo noted that it is unclear whether this bill would require the Board to waive all fees associated with obtaining a license.

Mr. Ruffino inquired whether this bill would apply to pass-through fees collected by the Department of Justice.

Mr. Puleo noted it is unclear from the language used in the bill what fee(s) would be included. However, it is likely that the Board will not be required to absorb such costs.

MOTION: MR. RUFFINO MOVED TO RECOMMEND A WATCH POSITION ON AB 1386.

SECOND: MR. SWEET SECONDED THE MOTION.

Discussion: None

Public Comment: There was none.

**VOTE: 2-0 (MR. RUFFINO – AYE, MR. SWEET – AYE)
MOTION CARRIED.**

11. Review, Discussion and Possible Action Regarding AB 1468 (Cunningham) Prior Authorization

Ms. McMillen provided the Committee with a summary of AB 1468.

Mr. Puleo stated that this bill does not directly impact the Board. Mr. Puleo added that until other stakeholders have weighed in and more information is available, it's difficult to know whether this bill will benefit chiropractic patients.

Mr. Ruffino asked if the California's Chiropractic Association (CalChiro) has taken a position on this bill.

Mr. Puleo noted he is unaware of their position.

MOTION: MR. RUFFINO MOVED TO RECOMMEND A WATCH POSITION ON AB 1468.

SECOND: MR. SWEET SECONDED THE MOTION.

Discussion: None

Public Comment: Ms. Dawn Benton, the Executive Director of CalChiro stated they have been working with the California Physical Therapy Association (CPTA) on the language for this bill. She informed the Committee that CalChiro will likely support this bill.

**VOTE: 2-0 (MR. RUFFINO – AYE, MR. SWEET – AYE)
MOTION CARRIED.**

12. Review, Discussion and Possible Action Regarding SB 772 (Ochoa-Bogh) Professions and Vocations: Citations: Minor Violations

Ms. McMillen provided the Committee with a summary of SB 772.

Mr. Puleo noted the Board rarely issues a citation and fine for a first-time minor violation. However, this bill would disregard the Board's progressive approach relative to minor violations and would take away the Board's discretion to assess appropriate citation fees associated with minor violations.

Additionally, Mr. Puleo stated this bill would not only reduce the Board's revenue significantly, it would also result in significant workload and ongoing expenses for the Board.

Mr. Sweet noted the Board should retain the right to assess a fine for minor violations. He inquired if there is a range of what typical minor violation fees amount to.

Mr. Puleo responded the Board is authorized to issue fines up to \$5,000. However, the Board does not typically assess the maximum fine unless it is an egregious violation. He clarified that minor first offenses can range anywhere between \$100 to \$500.

Mr. Ruffino stated this bill would interfere with the Board's ability to protect consumers.

MOTION: MR. RUFFINO MOVED TO RECOMMEND AN OPPOSE POSITION ON SB 772.

SECOND: MR. SWEET SECONDED THE MOTION.

Discussion: None

Public Comment: There was none.

**VOTE: 2-0 (MR. RUFFINO – AYE, MR. SWEET – AYE)
MOTION CARRIED.**

13. Future Agenda Items

Discussion: Mr. Ruffino asked staff to include AB 885 on the agenda for the next Committee meeting.

Adjournment

Mr. Ruffino adjourned the meeting at 4:30 p.m.