



**BOARD OF CHIROPRACTIC EXAMINERS
GOVERNMENT AND PUBLIC AFFAIRS COMMITTEE
MEETING MINUTES
March 13, 2023**

In accordance with the statutory provisions of Government Code section 11133, the Government and Public Affairs Committee (Committee) of the Board of Chiropractic Examiners (Board) met via teleconference/Webex Events with no physical public locations on March 13, 2023.

Committee Members Present

Janette N.V. Cruz, Chair

Rafael Sweet

Staff Present

Kristin Walker, Executive Officer

Dixie Van Allen, Licensing & Administration Manager

William Walker III, Enforcement Manager

Amanda Ah Po, Enforcement Analyst

Tammi Pitto, Enforcement Analyst

Kenneth Swenson, Board Counsel, Attorney III, Department of Consumer Affairs (DCA)

Steven Vong, Regulatory Counsel, Attorney III, DCA

1. Call to Order / Roll Call / Establishment of a Quorum

Ms. Cruz called the meeting to order at 11:00 a.m. Mr. Sweet called the roll. All members were present, and a quorum was established.

2. Review and Possible Approval of December 5, 2022 Committee Meeting Minutes

Motion: Mr. Sweet moved to approve the minutes of the December 5, 2022 Government and Public Affairs Committee meeting.

Second: Ms. Cruz seconded the motion.

Public Comment: None.

Vote: 2-0 (Ms. Cruz-AYE and Mr. Sweet-AYE).

Motion: Carried.

3. Update on Board's Administration Program, Including Budget and Fund Condition, Business Modernization and Implementation of Connect System, and Status of Board's Pending Rulemaking Packages and 2022–2026 Strategic Plan Objectives

Ms. Walker shared that former Enforcement Analyst Christina Bell retired from state service on February 6, 2023, and recruitment efforts are underway to refill her position, the Assistant Executive Officer position, and the Administrative Technician position. She also announced that the Board's previous regulatory counsel, Heather Hoganson, accepted a promotional position at the Office of Health Care Affordability and her last day with DCA was March 3, 2023. Ms. Walker welcomed the Board's new regulatory counsel, Steven Vong.

Ms. Walker updated the Committee on the implementation of the Connect system and shared that refinements to the applicant and licensee user dashboards were released on February 28, 2023. She explained the refinements were originally planned to coincide with the full implementation of cashiering in the system; however, user testing revealed the need for further development of the cashiering functionality before it can be released. She stated the next focus for the project is on the development and implementation of the continuing education (CE) provider portal so staff can accept and process CE provider and course applications in the system.

Ms. Cruz asked how the system refinements and communications with users have been going so far. Ms. Walker replied that the system is currently offline for maintenance and security enhancements but after it is restored, staff plans to spread information regarding the refinements through the Board's listserv and social media channels. She noted in addition to making the dashboard more intuitive to navigate, the refinements are expected to resolve a few bugs in the system that were preventing some users from being able to renew their licenses. She stated after staff feels that those issues have been stabilized, they will be notifying licensees and providing information to the associations to share with their membership.

Ms. Cruz asked about the estimated timeline for implementing the cashiering functionality. Ms. Walker stated the vendor needs to complete additional development of the workflow for processing renewals that are paid by check and the transfer of related data between the Connect system and the central CAS database. She estimated the work may be completed by late spring 2023.

Ms. Walker provided an update on the Board's 20 pending regulatory proposals and shared that the Continuing Education Committee is developing a proposal to amend the annual CE requirements for licensees and course approval process and a proposal to potentially mandate basic life support certification for all active licensees. She stated the Enforcement Committee is working on proposals to update the record keeping requirements for patient files, amend the Board's Disciplinary Guidelines and implement the Uniform Standards for Substance Abusing Licensees, and update the regulations

regarding the role and supervision of unlicensed staff within a chiropractic practice. She added the Licensing Committee has been discussing the filing of addresses and practice locations with the Board and is developing regulations regarding chiropractic college curriculum. She also explained staff is preparing rulemaking packages to: update the fee amounts within the Board's regulations for consistency with the new fee schedule; repeal the sponsored free healthcare events regulations based on the repeal of the underlying statutory authority; delegate authority to the Assistant Executive Officer; repeal California Code of Regulations, title 16, section 354 (Successful Examination); and update the chiropractic college regulations excluding curriculum.

Ms. Walker provided an overview of the Board's budget and fund condition and noted the Board's expenditures from FY 2021-22 exceeded its revenue primarily due to significant legal costs for cases at the Attorney General's Office and heard by the Office of Administrative Hearings. She shared that the current year's budget is more balanced due to the fee increase and savings in legal fees.

Ms. Cruz asked about the variation in income from surplus money investments on the fund condition statement. Ms. Walker replied that line item is part of the Board's miscellaneous income and varies based on interest rates, but it does not have a significant impact on the Board's fund. Ms. Cruz also asked about staff providing a detailed budget report beyond the overall schedule. Ms. Walker replied that she has evaluated some samples of reports from other DCA boards that provide a breakdown of line-item expenditures and staff plans to implement a similar report over the next few months.

Mr. Sweet noted the fluctuation in expenditures for legal services from the Attorney General's Office and asked if there is anything the Board can do to adjust those costs. Ms. Walker replied the expenditures vary based on the number of cases and referrals throughout the year. She noted staff attempts to stay within the budgeted amount of \$933,000 per year, and most cost savings are realized through the negotiation of stipulated settlements to avoid hearing expenses.

Ms. Walker updated the Committee on the 2022–2026 Strategic Plan objectives. For Objective 1.4 to monitor the Board's fee structure, she reiterated that staff is working on internal budget activities and expects to begin discussions of the license fee structure with the Committee in fall 2023 to provide time to assess the impacts of the recent fee increase. She stated Objectives 3.1 through 3.5 are based on the need to enhance the Board's outreach and sharing of information, and staff has been working on content to post on the Board's website and social media as well as identifying outreach opportunities with various stakeholders. She noted Objectives 4.1 and 4.2 address the need to increase efficiency in the Board's rulemaking process. She stated staff has developed an action plan to complete the 20 pending regulatory proposals and she implemented a new requirement for all staff at or above the associate governmental program analyst level to complete the formal rulemaking training offered by the Office of Administrative Law. Ms. Walker added Objectives 5.1 through 5.3 focus on internal

organizational development through improvement of the staff structure and training opportunities. She stated three recruitments for vacant positions have already been released and management will be updating all duty statements to better reflect the role and expectations of each staff position. She also explained staff is developing updated Board member resource materials.

Ms. Cruz and Mr. Sweet thanked staff for their efforts in preparing the action plan to address the strategic plan objectives. Mr. Sweet asked if the estimated completion dates identified in the plan are still accurate. Ms. Walker replied that many of the action items are still in progress, but staff is on target with most of them and she does not have any concerns. Ms. Cruz asked about the impact of existing vacancies and the onboarding of new staff. Ms. Walker explained that staff is at capacity in terms of projects and pending regulations, but new staff is expected to alleviate that over the next few months and allow for further progress.

Public Comment: Falkyn Luouxmont asked if the Board meeting scheduled for April 20, 2023, would be held in-person or via Webex. He also stated Life Chiropractic College West recently announced an expansion to a campus in Nebraska so it may be noteworthy to include Nebraska when studying reciprocity requirements as part of the Board's Strategic Plan objectives.

4. Review, Discussion, and Possible Recommendation on Legislation Related to the Board, the Chiropractic Profession, the Department of Consumer Affairs (DCA), and/or Other Healing Arts Boards

- A. Assembly Bill (AB) 477 (Waldron) Legislative review of state boards.
- B. AB 765 (Wood) Physicians and surgeons.
- C. AB 795 (Flora) Unlawful sale of equipment, supplies, or services.
- D. AB 796 (Weber) Athletic trainers.
- E. AB 814 (Lowenthal) Veterinary medicine: animal physical rehabilitation.
- F. AB 820 (Reyes) State boards and commissions: seniors.
- G. AB 883 (Mathis) Business licenses: United States Department of Defense SkillBridge program.
- H. AB 913 (Petrie-Norris) Professions and vocations.
- I. AB 996 (Low) Department of Consumer Affairs: continuing education: conflict-of-interest policy.
- J. AB 1028 (McKinnor) Reporting of crimes: mandated reporters.
- K. AB 1055 (Bains) Alcohol drug counselors.
- L. AB 1101 (Flora) Department of Consumer Affairs.
- M. AB 1369 (Bauer-Kahan) Healing arts licensees.
- N. AB 1646 (Nguyen, Stephanie) Healing arts boards.
- O. AB 1751 (Gipson) Opioid prescriptions: information: nonpharmacological treatments for pain.
- P. Senate Bill (SB) 259 (Seyarto) Reports submitted to legislative committees.
- Q. SB 358 (Nguyen) Professional licenses: military service.

- R. SB 372 (Menjivar) Department of Consumer Affairs: licensee and registrant records: name and gender changes.
- S. SB 764 (Padilla) Department of Consumer Affairs: regulatory boards: removal of board members.
- T. SB 770 (Wiener) State boards and commissions.
- U. SB 802 (Roth) Licensing boards: disqualification from licensure: criminal conviction.
- V. SB 820 (Alvarado-Gil) Consumer complaints.

Ms. Walker provided the staff report on the 22 bills listed on the meeting agenda. She noted nine bills – AB 477, AB 913, AB 1101, AB 1369, AB 1646, SB 358, SB 764, SB 770, and SB 820 – are spot bills and do not require any discussion during this meeting.

Ms. Walker summarized and shared the staff recommendation for the following bills:

- AB 765 (Wood), known as the California Patient Protection, Safety, Disclosure, and Transparency Act, would make various legislative findings and declarations regarding the use of titles by health care professionals and would prohibit any person who is not licensed as a physician and surgeon from using medical specialty titles or any titles, terms, letters, words, abbreviations, descriptions of services, designations, or insignia, alone or in combination with any other title, indicating or implying that the person is licensed to practice as such. Staff recommends watching the bill, but staff is concerned with the potential impact on the Board's Enforcement Program because doctors of chiropractic who have achieved diplomate status in chiropractic specialty areas also use some of the specified titles and descriptions of services.
- AB 795 (Flora) would increase the exclusion for cash sales of \$100 to \$200 from the misdemeanor crime of selling equipment, supplies, or services to any person with knowledge that the equipment, supplies, or services will be used in the performance of a service or contract in violation of the licensing requirements of the Business and Professions Code. In addition, the bill would increase the fine for this crime from not less than \$1,000 to not less than \$2,000. Staff does not anticipate any impact to the Board from this bill and recommends watching it.
- AB 796 (Weber) would establish the California Board of Athletic Training as a new DCA healing arts board. Staff recommends watching this bill.
- AB 814 (Lowenthal) would state the intent of the Legislature to enact subsequent legislation to authorize a veterinarian to refer an animal to a licensed physical therapist holding an advanced certification to provide animal physical rehabilitation under the supervision of a veterinarian. Staff recommends watching this bill and will monitor for future amendments that may enact the planned legislation.

- AB 820 (Reyes) would state the intent of the Legislature to enact legislation that would increase representation for older adults on state boards and commissions. Staff recommends watching this bill.
- AB 883 (Mathis) would require a DCA board to expedite, and authorize the board to assist, the initial licensure process for an applicant who supplies satisfactory evidence that they are enrolled in the United States Department of Defense SkillBridge program. Staff estimates a minor fiscal impact to update the initial license application based on this bill, and staff recommends the Board support this bill based on its intent to expedite the licensure process for an additional group of military members.
- AB 996 (Low) would require any DCA board or bureau that is responsible for approving CE providers or courses to develop and maintain a conflict-of-interest policy that, at a minimum, discourages the qualification of any CE course if the provider of that course has an economic interest in a commercial product or enterprise directly or indirectly promoted in that course. Staff recommends the Board support this bill because it ensures CE courses are not being used as opportunities to sell products and services directly to licensees.
- AB 1028 (McKinnor) would, on or after January 1, 2025, remove the requirement that a health practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct, and instead, require a health practitioner who knows or reasonably suspects is experiencing any form of domestic violence or sexual violence to provide brief counseling, education, or other support, and offer a warm handoff or referral to advocacy services before the end of the patient visit. Staff recommends watching this bill.
- AB 1055 (Bains) would establish the Allied Behavioral Health Board within DCA for the regulation of alcohol drug counselors. Staff recommends watching this bill.
- AB 1751 (Gipson) would require a prescriber to discuss the risks of addiction and overdose associated with the use of opioids and the availability of nonpharmacological treatments for pain with the patient before directly dispensing or issuing the first prescription for a controlled substance containing an opioid and then offer, if appropriate, a referral to a provider of nonpharmacological treatments for pain, such as acupuncture, chiropractic care, physical therapy, occupational therapy, or licensed mental health provider services. This bill would also make various findings and declarations about the importance of the awareness of these types of treatments for pain to help combat the opioid crisis. Staff recommends the Board support this bill because it provides consumer protection by ensuring patients are aware of the risks of addiction associated with opioid use and the availability of other treatments for pain.

- SB 259 (Seyarto) would require a state agency to post on its website any report that the agency submits to a committee of the Legislature. Staff recommends watching this bill.
- SB 372 (Menjivar) would require a DCA board to update a licensee or registrant's records, including records contained within an online license verification system, to include the licensee or registrant's updated legal name or gender upon receipt of government-issued documentation demonstrating the name or gender change and prohibit the board from charging a higher fee for reissuing a document with a corrected or updated legal name or gender than the fee it charges for reissuing a document for any other changes. Staff recommends watching this bill.
- SB 802 (Roth) would require a DCA board to notify an applicant in writing within 30 days after a decision is made to deny an application for licensure based solely or in part on the applicant's conviction history. Existing law does not specify a timeframe during which this written notification must be transmitted. Staff recommends watching this bill.

Mr. Sweet asked if there has been any licensee feedback on the implementation of AB 1028 (McKinnor). Ms. Walker explained that when the Board discussed the concept in 2022, the licensee members expressed concerns with the proposal because some licensees may lack the appropriate training to provide the required counseling or education to their patients prior to the handoff to advocacy services. Mr. Sweet noted AB 765 (Wood) appears to have the greatest fiscal impact to the Board and asked about the likelihood of the bill passing. Ms. Walker replied that the bill has not yet been discussed by a policy committee but potentially could pass this year so the Board may want to consider offering feedback and potential amendments to the author's office.

Ms. Cruz noted AB 1028 (McKinnor) contains a provision that the health practitioner shall not be civilly or criminally liable for any report that is made in good faith and asked if practitioners have discretion in determining whether to make the report. Ms. Walker explained that health practitioners would be required to provide the counseling or education and a referral for advocacy services whenever they suspect a patient may be experiencing domestic or sexual violence, and that provision would protect them from liability when making that report in good faith.

Motion: Ms. Cruz moved to recommend to the Board that it adopt the staff recommendation to support AB 883 (Mathis) Business licenses: United States Department of Defense SkillBridge program.

Second: Mr. Sweet seconded the motion.

Public Comment: None.

Vote: 2-0 (Ms. Cruz-AYE and Mr. Sweet-AYE).

Motion: Carried.

Motion: Ms. Cruz moved to recommend to the Board that it adopt the staff recommendation to support AB 996 (Low) Department of Consumer Affairs: continuing education: conflict-of-interest policy.

Second: Mr. Sweet seconded the motion.

Public Comment: None.

Vote: 2-0 (Ms. Cruz-AYE and Mr. Sweet-AYE).

Motion: Carried.

Motion: Ms. Cruz moved to recommend to the Board that it adopt the staff recommendation to support AB 1751 (Gipson) Opioid prescriptions: information: nonpharmacological treatments for pain.

Second: Mr. Sweet seconded the motion.

Public Comment: Dawn Benton from the California Chiropractic Association (CalChiro) thanked the Committee for their recommendation of support for CalChiro's sponsored bill, AB 1751 (Gipson).

Vote: 2-0 (Ms. Cruz-AYE and Mr. Sweet-AYE).

Motion: Carried.

Motion: Ms. Cruz moved to direct staff to gather additional information regarding AB 765 (Wood) Physicians and surgeons and AB 1028 (McKinnor) Reporting of crimes: mandated reporters for discussion at the April 20, 2023 Board meeting.

Second: Mr. Sweet seconded the motion.

Public Comment: Falkyn Luouxmont requested that the discussion of AB 765 (Wood) also include the title "physical therapist" because physical therapists are providing adjustments and manipulations but their legal scope of practice does not include the detection of subluxation.

Vote: 2-0 (Ms. Cruz-AYE and Mr. Sweet-AYE).

Motion: Carried.

Ms. Cruz provided an opportunity for the public to comment on any of the other bills that were not included in the Committee's motions.

Public Comment: None.

5. Public Comment for Items Not on the Agenda

Public Comment: None.

6. Future Agenda Items

Ms. Cruz proposed a discussion regarding the tracking and reporting of progress on the 2022–2026 Strategic Plan objectives to the Board.

Public Comment: None.

7. Adjournment

Ms. Cruz adjourned the meeting at 12:13 p.m.