

**Board of Chiropractic Examiners
TELECONFERENCE MEETING MINUTES
Government Affairs & Public Relations Committee Meeting
May 21, 2018**

Teleconference Meeting Locations

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

Corey Lichtman, D.C.
Solana Beach Family
& Sports Chiropractic
538 Stevens Ave.
Solana Beach, CA 9207
(858) 876-6300

Heather Dehn, D.C.
Dehn Chiropractic
4616 El Camino Ave. #B
Sacramento, CA 95821
(916) 488-0242

Committee Members Present

Heather Dehn, D.C.
Corey Lichtman, D.C.

Staff Present

Robert Puleo, Executive Officer
Marcus McCarther, Policy Analyst
Kenneth Swenson, Attorney III
Valerie James, Management Services Technician

Call to Order

Dr. Dehn called the meeting to order at 1:01 p.m.

Roll Call

Dr. Lichtman called roll. All members were present at the locations listed on the agenda.

Review, Discussion and Possible Action on 2017-2019 BCE Strategic Plan Goals

Mr. McCarther referred to Strategic Plan Goal 4.2. *Explore the feasibility of promulgating a regulation that requires licensees to provide their current e-mail address to the Board to facilitate better outreach and communication.* He informed the Committee that the Board has requested a legal opinion on this matter, thereby completing action item 4.2.1.

Mr. Swenson shared that the Board's request will be completed in the near future.

Mr. Puleo asked if other programs within the Department of Consumer Affairs (DCA) require licensees to provide their e-mail address.

Mr. Swenson responded that various DCA programs ask for an e-mail address but it is not required.

Mr. Puleo inquired whether the legal opinion is DCA-wide or specific to the Board.

Mr. Swenson explained the opinion will only be addressed to the Board.

Mr. McCarther noted the Committee will receive an update on the remaining actions items under Strategic Plan Goal 4.2 once the legal opinion has been reviewed by the Board.

Review, Discussion and Possible Action on changes to the Board Member Administrative Procedure Manual

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

Mr. McCarther referred to the proposed list of roles for board officers on page 8, and explained the list enumerates duties of members elected to serve as Board Chair, Vice Chair and Secretary.

Dr. Dehn and Dr. Lichtman agreed to incorporate the roles of board officers into to the BMAPM.

Mr. McCarther referred to the proposed section regarding the Bagley-Keene Open Meeting Act on page eleven. He stated this inclusion will inform Board members of terms and provisions of the Open Meeting Act.

Public Comment: Ms. Dawn Benton, the Executive Director of California's Chiropractic Association (CalChiro) clarified that no more than two Board members can actively discuss or take any action on any board business outside of a public meeting of the Board.

Mr. McCarther referred to page 24, subheading "Strategic Planning" and proposed replacing the following language " The Board must develop a strategic plan once every three years beginning 2013" with: " The Board must develop a strategic plan in the year of the Joint Sunset Oversight Hearings."

Mr. McCarther explained it would be advantageous to engage in strategic planning in the year of sunset hearings. He added that any recommendations provided by the Legislature would be included in the Board's Strategic Planning.

Dr. Dehn inquired if the Sunset review takes place in January of each year.

Mr. McCarther clarified that Sunset hearings are typically held in the spring (every 4 years).

Dr. Dehn asked for clarification regarding the process to incorporate the Sunset review into the Board's strategic planning.

Mr. Puleo provided a brief overview of the Sunset review process. He stated that addressing issues brought forward by the Legislature in the Strategic Plan is an effective way to identify goals the Board would like to prioritize. He added that drafting the Strategic Plan prior to Sunset review would create unnecessary workload.

Mr. McCarther referenced the periodic fee audits section on page 25. He noted the language was suggested by former Board member, Dr. Julie Elginer, at the October 2017 Board meeting. The proposed section would require the Board to complete a fee audit every 3-5 years.

Dr. Dehn and Dr. Lichtman had no objections.

Mr. Puleo inquired if it would be appropriate to include a policy on meals and breaks.

Dr. Dehn advised this topic should remain within the Board's discretion. She suggested maintaining the current process to include meals and break periods on Board meeting agendas.

MOTION: DR. DEHN MOVED TO RECOMMEND TO THE FULL BOARD THE ADOPTION OF THE REVISED BOARD MEMBER ADMINISTRATIVE MANUAL PROCEDURE. SECOND: DR. LITCHMAN SECONDED THE MOTION.

Discussion: None

**VOTE: 2-0 (DR. DEHN – AYE, DR. LICHTMAN – AYE)
MOTION CARRIED.**

Review, Discussion and Possible Action to Amend Board Election Procedures

Mr. Puleo informed the Committee that a number of Board members expressed concerns over the current process to elect Board officers. He shared staff researched election processes adopted by other DCA boards and identified alternatives to the Board's existing election process.

Mr. Puleo provided a brief overview of the election procedures recommended by staff.

Ms. Benton asked if the election process would be revised every year.

Mr. Puleo responded the Board would adopt the preferred election procedure going forward. This information will be included in the procedure manual.

Dr. Dehn offered suggestions regarding the election process. Following a Board member self-nomination, Board members should have the opportunity to provide a statement of qualifications for the position they are interested in. She added the statement should not be longer than five minutes.

Dr. Dehn stressed the importance of adopting a procedure to resolve any potential deadlocks. She proposed having three rounds of votes. In the event there is not a majority of votes, the vote would default to the incumbent who held the position prior to the election (status quo remains).

Mr. Swenson reminded the Committee of the requirement for board offices to be filled in the month January of each year. Therefore, balloting would need to continue until an office is selected.

Dr. Dehn asked for clarification regarding limitations to balloting when a quorum is not established.

Mr. Swenson responded that the Board would need to establish a quorum (four board members would be the minimum number of voting members) to hold an election of board officers and have a majority vote to elect board member officers.

Dr. Dehn inquired if there is a limitation to balloting when there is not a majority of votes.

Mr. Swenson advised leaving it up to a motion at the time of the election instead of documenting in the procedure manual.

Mr. Puleo posed a question regarding a process to address any potential deadlocks, and if it would be appropriate to document it.

Mr. Swenson had no objections.

Dr. Dehn inquired if there is a legal reason for not allowing a certain round of votes to take place when a deadlock has been reached.

Mr. Swenson advised that documenting a specific round of votes to address a deadlock can become problematic in the future. He proposed reminding the Board of the voting procedures ahead of a nomination period.

Mr. Swenson clarified that he is simply making a recommendation and it would be up to the Board to make a policy decision.

Dr. Dehn proceeded with her initial recommendation to include three rounds of voting. In the event there is not a majority of votes or if there is a tie, the vote would default to the current incumbent in that position.

Dr. Denh suggested adding her suggestions to the staff recommendation, which will be presented to the Board at the upcoming meeting.

Mr. Puleo and Mr. McCarther had no objections.

Review, Discussion, and Possible Action on SB 1480 (Hill) Professions and Vocations

Mr. Puleo provided the Committee with a brief summary of SB 1480. To address findings of the recent fee audit, the Board updated its fees based on actual costs to provide licensing, enforcement and administrative services. This bill will codify the new fee schedule into section 1006.5 of the Business and Professions Code (BPC), thereby maintaining the Board's solvency into the near future.

Dr. Dehn inquired about the difference between an application fee and the fee for initial license to practice.

Mr. Puleo clarified that an applicant is required to pay for an application fee of \$371 to have the Board determine if they meet all licensing requirements. Once the applicant is eligible for a license, they would be granted licensure upon paying for the initial license fee of \$186.

**MOTION: DR. DEHN MOVED TO RECOMMEND A SUPPORT POSITION ON SB 1480.
SECOND: DR. LITCHMAN SECONDED THE MOTION.**

Discussion: None

**VOTE: 2-0 (DR. DEHN – AYE, DR. LICHTMAN – AYE)
MOTION CARRIED.**

Review, Discussion, and Possible Action on SB 1448 (Hill) Probation Status: Disclosure

Mr. Puleo provided the Committee with a brief summary of SB 1448. This bill would require various healing arts licensees, including chiropractors, to disclose their probationary status to a patient. Additionally, the Board would be required to disclose a licensee's probationary status on its website.

Mr. McCarther reminded the Committee that this bill will take effect on July 1, 2019. He added that interested parties will be made aware of this requirement going forward.

Dr. Lichtman inquired whether this bill requires chiropractors to have a discussion with patients about the violations resulting in a probationary order.

Mr. Puleo clarified that the bill requires licensees to, prior a patient's visit, verbally inform patients they have been placed on probation, provide a written disclosure to the patient of their probationary status and obtain a signed copy of the disclosure.

**MOTION: DR. DEHN MOVED TO RECOMMEND A SUPPORT POSITION ON SB 1448.
SECOND: DR. LITCHMAN SECONDED THE MOTION.**

Discussion: None

**VOTE: 2-0 (DR. DEHN – AYE, DR. LICHTMAN – AYE)
MOTION CARRIED.**

Review, Discussion, and Possible Action on AB 2138 (Chiu) Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction

Mr. Puleo provided the Committee with a summary of AB 2138. This bill would limit the Board's ability to deny, suspend or revoke a license based on criminal convictions. He informed the Committee that the current language in the bill raises policy issues.

Mr. Puleo reviewed highlights from a recent meeting with the Business and Professions (B&P) Assembly Committee and other licensing boards to discuss various concerns regarding this bill.

Mr. Puleo explained the B&P Committee believes that qualified people are denied occupational licenses or have their licenses revoked or suspended on the basis of prior arrests or convictions, many of which are old, unrelated to the job, or have been judicially dismissed. Mr. Puleo noted the Legislature's goal is to alleviate barriers to occupational licensing and reduce recidivism.

Mr. Puleo shared his concerns regarding AB 2138, including the limitation on information the Board usually receives to determine whether an applicant or licensee is fit to practice. This can ultimately mitigate the Board's ability to fulfill its consumer protection mandate.

He recommended a watch position on this bill and suggested communicating with the author's office to further discuss the Board's concerns.

Dr. Dehn asked Ms. Benton if she had any comments regarding AB 2138.

Ms. Benton announced that CalChiro took a support position on this bill.

Mr. Puleo reiterated the Board's concerns from a consumer protection standpoint. The current language in the bill would prevent the Board from denying, suspending or revoking a license based on registerable offences such as sexual related convictions, felony financial crime such as insurance fraud. Additionally, we would not be able to see if there is a pattern of non-serious violations, which is very problematic. Ultimately, the Board would have to grant an unrestrictive license to an individual who may not be fit to practice.

Mr. McCarther stated the author is aware of the problematic provisions of this bill and will address those concerns. He noted that the author's intent is to be consistent with the Legislature's push for criminal justice reform, thereby reducing barriers for licensure.

**MOTION: DR. DEHN MOVED TO RECOMMEND A WATCH POSITION ON AB 2138.
SECOND: DR. LITCHMAN SECONDED THE MOTION.**

Discussion: None

**VOTE: 2-0 (DR. DEHN – AYE, DR. LICHTMAN – AYE)
MOTION CARRIED.**

Public Comment

Ms. Benton inquired if there is a specific timeframe to make Committee meeting minutes available to the public.

Mr. Puleo explained that, once the meeting minutes are approved by the Committee, they are made available to the public when materials for an upcoming meeting are posted to the Board's website.

Ms. Benton posed a question on behalf of a CalChiro member, if it would be appropriate to upload pictures of the chiropractor's staff and patients on social media networking sites. She expressed concern over a possible violation of the Health Insurance Portability and Accountability Act (HIPPA).

Mr. Puleo suggested seeking legal advice to determine the best course of action.

Future Agenda Items

None.

Adjournment

Dr. Dehn adjourned the meeting at 2:18 p.m.