



BOARD OF CHIROPRACTIC EXAMINERS
MEETING MINUTES
May 20, 2022
Teleconference

Teleconference Meeting Locations:

David Paris, D.C.
Dept. of Consumer Affairs
1625 N. Market Blvd., Ste. N-220
Sacramento, CA 95834

Laurence Adams, D.C.
101 Andrieux St.
Sonoma, CA 95476

Rafael Sweet
5250 Lankershim Blvd., Ste. 500
North Hollywood, CA 91601

Janette N.V. Cruz
6201 S St., Third Floor
Sacramento, CA 95817

Pamela Daniels, D.C.
1165 Park Ave.
San Jose, CA 95126

Board Members Present

David Paris, D.C., Chair
Laurence Adams, D.C., Vice Chair
Rafael Sweet, Secretary
Janette N.V. Cruz
Pamela Daniels, D.C.

Staff Present

Kristin Walker, Acting Executive Officer
Dixie Van Allen, Licensing & Administration Manager
Amanda Campbell, Enforcement Analyst
Andreia McMillen, Policy Analyst
Jason Hurtado, Board Counsel, Attorney III, Department of Consumer Affairs (DCA)

1. Open Session – Call to Order / Roll Call / Establishment of a Quorum

Dr. Paris called the meeting to order at 12:03 p.m. Mr. Sweet called the roll. All members were present and a quorum was established.

2. Review, Discussion, and Possible Action on Proposal to Amend the Board's Fee Schedule (Business and Professions Code Section 1006.5)

Ms. Walker provided an overview of the Board's proposed fee schedule for the Board to discuss and make a final decision related to the continuing education (CE) course application and license renewal fees. Despite the Board's best efforts, increasing operating and enforcement costs are continuing to outpace the annual revenue received through regulatory fees, and without an increase in fees, the Board's fund is projected to become insolvent in fiscal year 2023-24.

Ms. Walker stated the Board previously contracted with Matrix Consulting Group (Matrix) to conduct a fee analysis and determine the appropriate level to set fees based

on actual workload and expenditures. Based on this analysis, Matrix concluded that the Board is under recovering approximately \$1.4 million annually and the majority of those costs are related to the CE program. At previous meetings, the Board aligned the proposed fee schedule with the fees deemed appropriate by Matrix. However, the Board has become aware of concerns from stakeholders and is reintroducing the topic for further discussion.

Ms. Walker explained in 2021, the Board processed over 2,000 CE course applications comprising approximately 10,500 hours of education. Of those courses, the average number of hours of instruction was five with a median of three hours, and the most common course application received was for just one hour of instruction. Of the applications received, approximately 30% were for mandatory subject areas and the remaining 70% were for general education in other categories.

Ms. Walker advised the Board the first policy issue for their discussion is the appropriate level for the CE course application fee. Currently, the Board charges a flat-rate fee of \$56 per course application in a single subject area and the course can be offered for one year. Based on their analysis, Matrix proposed a flat-rate fee of \$558 per course application or \$116 per hour of instruction to fully recover the Board's costs of administering the CE program. The Board could also consider setting an hourly rate with a maximum fee cap.

Dr. Adams asked if there were other options for the CE application fee or if \$558 was required. Ms. Walker replied that Matrix determined the full cost of the CE program was \$558 per course application and if this number was reduced, another fee, such as for license renewal, would need to be increased to reconcile the difference.

Dr. Paris asked if a fee cap would therefore need to be subsidized. Ms. Walker answered that a fee cap would increase the hourly rate so the CE providers who typically offer one- and two-hour courses would be subsidizing a portion of the costs for providers who offer longer courses.

Ms. Walker brought forth the second policy issue for the Board's consideration. Senate Bill (SB) 1031 (Ochoa Bogh), if passed, would limit the cost of an inactive license renewal to half of the fee for an active license renewal. For the Board to recover costs, the fee for an active license renewal would then need to be increased to \$366 with the inactive license renewal fee set at \$183.

Ms. Walker informed the Board of the third policy issue which is whether the Board should pursue a fee schedule with the fixed fees set in statute, or if the Board should request a fee schedule with the initial fee rate set in statute and the authority to further adjust the fees, if necessary, through the regulatory process. The California Acupuncture Board recently received a fee increase and their statute provides the authority through regulation to increase the renewal fee further to ensure financial stability of the board.

Dr. Adams asked if the cost for a CE course application could be decreased if the course was previously submitted and approved. Ms. Walker stated that under current regulations, it is the same application process regardless of whether it is the first time a CE provider is applying for a course or if the course has been submitted multiple times. Ms. Walker suggested the Licensing and CE Committee discuss this issue as part of the comprehensive update to CE regulations.

Dr. Adams suggested the Board decide on a standard hourly rate less than \$116 and increase the annual license renewal fee further instead. Dr. Paris emphasized the Board would then be asking licensees to subsidize the CE providers' cost of business. Discussion ensued.

Public Comment: Laurie Isenberg, Director of Postgraduate and Continuing Education at Life Chiropractic College West, expressed this would be a significant fee increase, requested there be a lower fee for renewing a course if there have been no changes, and stated the current CE process is inefficient.

Dawn Benton, Executive Director of the California Chiropractic Association, stated a fee of \$558 per course application would be exorbitant and unmanageable and agreed with Ms. Isenberg that the current CE process is inefficient.

Dr. Adams asked Ms. Benton if \$116 per hour of instruction was feasible. Ms. Benton replied it was more manageable.

MOTION: MR. SWEET MOVED TO PROPOSE A CONTINUING EDUCATION COURSE APPLICATION FEE OF \$116 PER HOUR OF INSTRUCTION AS RECOMMENDED BY MATRIX CONSULTING GROUP.

SECOND: DR. DANIELS SECONDED THE MOTION.

Discussion: Dr. Paris suggested an amendment to the motion to include "without a fee cap."

AMENDED MOTION: MR. SWEET MOVED TO PROPOSE A CONTINUING EDUCATION COURSE APPLICATION FEE OF \$116 PER HOUR OF INSTRUCTION WITHOUT A FEE CAP AS RECOMMENDED BY MATRIX CONSULTING GROUP.

SECOND: DR. DANIELS SECONDED THE AMENDED MOTION.

Discussion: None.

Public Comment: None

VOTE: 5-0 (DR. PARIS-AYE; DR. ADAMS-AYE; MR. SWEET-AYE; MS. CRUZ-AYE; DR. DANIELS-AYE).

MOTION: CARRIED.

MOTION: DR. ADAMS MOVED TO PROPOSE THE LICENSE RENEWAL FEE RECOMMENDED BY MATRIX CONSULTING GROUP WITH THE ACTIVE AND INACTIVE LICENSE RENEWAL FEES SET AT THE SAME RATE.

SECOND: DR. PARIS SECONDED THE MOTION.

Discussion: Mr. Sweet asked for clarification on the motion and how SB 1031 may affect the license renewal fees. Ms. McMillen stated SB 1031 is seeking to limit an inactive license renewal fee to no more than half of the active license renewal fee and would result in a revenue loss of over \$200,000 annually. Ms. Van Allen informed the Board that she was just notified that SB 1031 died in the Senate Appropriations Committee on May 19, 2022.

Public Comment: Laurie Isenberg stated the proposed fee increase for CE course applications would make California the most expensive state for courses consisting of three or more hours.

VOTE: 5-0 (DR. PARIS-AYE; DR. ADAMS-AYE; MR. SWEET-AYE; MS. CRUZ-AYE; DR. DANIELS-AYE).

MOTION: CARRIED.

MOTION: DR. ADAMS MOVED TO REQUEST A FEE SCHEDULE WITH THE INITIAL FEE RATES SET IN STATUTE AND THE AUTHORITY TO FURTHER ADJUST THE FEES, IF NECESSARY, THROUGH THE REGULATORY PROCESS.

SECOND: MR. SWEET SECONDED THE MOTION.

Discussion: None.

Public Comment: Matt Nishimine from DCA's Budget Office stated that he shepherded the California Acupuncture Board through this regulatory process and specified the need for the Board to establish a floor with the fees proposed in the Matrix fee study and a statutory cap.

Ms. Walker added staff's recommendation is to have fixed fees for a majority of the Board's services, but pursue a higher statutory cap for the chiropractic license renewal fee as it is the Board's primary source of revenue. Ms. Walker recommended a cap of \$400 to \$500 for that fee.

AMENDED MOTION: DR. ADAMS MOVED TO REQUEST A FEE SCHEDULE WITH THE INITIAL FEES SET IN STATUTE, THE AUTHORITY TO REDUCE THOSE FEES, IF NECESSARY, THROUGH THE REGULATORY PROCESS, AND THE AUTHORITY

TO INCREASE THE ANNUAL DOCTOR OF CHIROPRACTIC LICENSE RENEWAL FEE UP TO A STATUTORY MAXIMUM OF \$500.00 THROUGH REGULATION.

SECOND: DR. PARIS SECONDED THE AMENDED MOTION.

Discussion: None.

Public Comment: None.

VOTE: 5-0 (DR. PARIS-AYE; DR. ADAMS-AYE; MR. SWEET-AYE; MS. CRUZ-AYE; DR. DANIELS-AYE).

MOTION: CARRIED.

3. Update, Discussion, and Possible Action on Legislation

Ms. McMillen presented the Board with an overview of proposed legislation with potential impacts to the Board.

A. Assembly Bill (AB) 646 (Low) Department of Consumer Affairs: boards: expunged convictions.

Ms. McMillen explained AB 646 would require a board within DCA that has posted on its online license search system that a person's license was revoked due to being convicted of a crime to, within 90 days of receiving a certified copy of an expungement order from the person, either post notification of the expungement order if the person reapplies for licensure or is relicensed, or to remove the posting that the person's license was revoked and information regarding the conviction if the person is not currently licensed and does not reapply for licensure. While staff supports the intent of this bill to reduce employment barriers, there are concerns the bill could conflict with the Board's consumer protection mandate by limiting the disciplinary history information that can be publicly disclosed. The Board previously took a "watch" position on this bill at the July 16, 2021 meeting and staff recommends maintaining this position.

B. AB 1662 (Gipson) Licensing boards: disqualification from licensure: criminal conviction.

Ms. McMillen stated AB 1662 would require a board to establish a process by which prospective applicants may request a preapplication determination as to whether their criminal history could be cause for denial of a license and to publish information regarding its process for requesting a preapplication determination on its website. This bill would authorize a board designated in Business and Professions Code (BPC) section 144, subdivision (b), to require a prospective applicant to furnish a full set of fingerprints for purposes of conducting a criminal history record check and charge a fee of up to \$50. However, the Board is not currently included in BPC

section 144, subdivision (b). Therefore, staff recommends the Board support this bill if it is amended to authorize the Board to conduct a fingerprint background check for prospective applications seeking a preapplication determination based on criminal history information.

Dr. Paris requested an analysis of the fiscal impact of AB 1662.

C. AB 1733 (Quirk) State bodies: open meetings.

Ms. McMillen introduced AB 1733 which seeks to amend the Bagley-Keene Open Meeting Act to specify that a “meeting” held under this act includes those held entirely by teleconference and would remove provisions that requires each teleconference location to be identified in the notice and agenda and accessible to the public, and instead would require the state body to adhere to provisions that would ensure the public’s access via teleconference and at a set physical location. This bill would eliminate the requirement for the Board to meet at least once per calendar year in northern California and southern California if all meetings are held entirely by teleconference. Staff estimates this bill could result in cost savings to the Board of up to \$20,000 annually and recommends supporting this bill.

D. Senate Bill (SB) 1031 (Ochoa Bogh) Healing arts boards: inactive license fees.

This bill was held in the Senate Appropriations Committee on May 19, 2022, and no longer requires discussion.

E. SB 1237 (Newman) Licensees: military service.

Ms. McMillen informed the Board that amendments to SB 1237 on March 30, 2022, removed the provision to waive the renewal fees of a licensee called to active duty if the licensee is stationed outside of California. This bill would, instead, clarify that “called to active duty” has the same meaning as “active duty” and includes individuals who are on active duty in the California National Guard. Staff recommends watching this bill as it does not directly impact Board operations at this time.

F. SB 1365 (Jones) Licensing boards: procedures.

SB 1365 was placed on the Senate Appropriations Committee suspense file on May 9, 2022. Staff recommends watching this bill.

G. SB 1434 (Roth) State Board of Chiropractic Examiners: directory.

Ms. McMillen updated the Board on SB 1434 (Roth), the Board’s sunset bill. This bill would require the Board to: 1) be subject to review by the appropriate policy committees of the Legislature as if the practice act was scheduled to be repealed on

January 1, 2017; 2) include the telephone numbers and email addresses of licensees in the Board's directory and require licensees to immediately notify the Board of a change to contact information; and 2) submit a report to the appropriate policy and fiscal committees of the Legislature by July 1, 2023, on the Board's plans for restructuring its license fees. In addition, this bill would remove specified exemptions from the probation status disclosure requirement for licensees placed on probation by the Board. Staff recommends supporting this bill.

MOTION: MR. SWEET MOVED TO ADOPT STAFF'S RECOMMENDED LEGISLATIVE POSITIONS WITH THE EXCEPTION OF SB 1031 (OCHOA BOGH).

SECOND: MS. CRUZ SECONDED THE MOTION.

Discussion: None.

Public Comment: None.

VOTE: 5-0 (DR. PARIS-AYE; DR. ADAMS-AYE; MR. SWEET-AYE; MS. CRUZ-AYE; DR. DANIELS-AYE).

MOTION: CARRIED.

4. Discussion and Possible Action on Chair's Proposal for the Board to Create Separate "Licensing" and "Continuing Education" Committees

Dr. Paris introduced the discussion and reminded the Board of the current composition of its three standing committees:

- Licensing and Continuing Education Committee, formerly chaired by Dionne McClain, D.C. with members Drs. Adams and Daniels;
- Enforcement and Scope of Practice Committee, chaired by Dr. Adams with members Mr. Sweet and Dr. Paris; and
- Government and Public Affairs Committee, chaired by Ms. Cruz with member Mr. Sweet.

Ms. Walker noted under Dr. Paris' proposal, the Board would divide the functions of the existing Licensing and Continuing Education Committee between the two separate committees. The Licensing Committee would propose regulations, policies, and standards regarding chiropractic colleges, Doctors of Chiropractic, satellite offices, and corporation registrations, and the Continuing Education Committee would propose regulations, policies, and standards regarding CE providers and courses, provide oversight of staff's auditing of CE, and serve as the review committee for appeals of denied CE course applications.

Drs. Adams and Daniels were concerned that adding a new committee would hinder the Board's effectiveness by creating additional responsibilities and meetings. Dr. Paris

commented that regardless of adding another committee, the work was necessary to ensure progress. He expressed that the topic of CE currently overshadows the licensing aspect of the existing committee and separating the two into their own committees would allow the Board to diversify the expertise of the Board. He added that the Board has two vacant positions and once fully staffed, the responsibilities and time commitments to the assigned committees would become more manageable.

MOTION: DR. PARIS MOVED TO CREATE SEPARATE LICENSING AND CONTINUING EDUCATION COMMITTEES WITH THE FUNCTIONS OUTLINED IN THE BOARD MEETING MATERIALS AND FOR THIS CHANGE TO TAKE EFFECT IMMEDIATELY UPON APPROVAL.

SECOND: MS. CRUZ SECONDED THE MOTION.

Discussion: None.

Public Comment: None.

VOTE: 5-0 (DR. PARIS-AYE; DR. ADAMS-AYE; MR. SWEET-AYE; MS. CRUZ-AYE; DR. DANIELS-AYE).

MOTION: CARRIED.

5. Public Comment for Items Not on the Agenda

There were no public comments.

6. Future Agenda Items

Dr. Paris requested the Board have a discussion regarding how far in advance the scheduling of meetings should occur. Drs. Adams and Daniels agreed.

There were no public comments.

7. Closed Session

The Board met in Closed Session to:

- A. Interview Candidates for the Executive Officer Position Pursuant to Government Code Section 11126, subd. (a)(1)
- B. Discuss and Possibly Take Action to Select and Appoint a Permanent Executive Officer Pursuant to Government Code Section 11126, subd. (a)(1)

8. Adjournment

Dr. Paris adjourned the meeting at 4:00 p.m.