



State of California  
Edmund G. Brown Jr., Governor

**Board of Chiropractic Examiners  
TELECONFERENCE MEETING MINUTES  
Government Affairs Committee  
March 10, 2016**

Teleconference Meeting Locations

Julie Elginer, DrPH  
Board of Chiropractic Examiners  
901 P Street, Suite 142A  
Sacramento, CA 95814

Dionne McClain, D.C.  
McClain Sports & Wellness Inc.  
6360 Wilshire Blvd. #410  
Los Angeles, CA 90048

Mr. Frank Ruffino  
Department of Veterans Affairs  
700 East Naples Court  
Chula Vista, CA 91911

**Committee Members Present**

Julie Elginer, DrPH, Chair  
Dionne McClain, D.C.  
Frank Ruffino

**Staff Present**

Robert Puleo, Executive Officer  
Linda Shaw, Assistant Executive Officer  
Marcus McCarther, Policy Analyst  
Valerie James, Management Services Technician

**Call to Order**

Dr. Elginer called the meeting to order at 10:01 a.m.

**Roll Call**

Dr. McClain called the roll. All Board members were present at the locations listed on the Agenda.

**Approval of Minutes**

**MOTION: MR. RUFFINO MOVED TO APPROVE THE MINUTES.**

**SECOND: DR. MCCLAIN SECONDED THE MOTION**

**VOTE: (3-0) (DR. MCCLAIN – AYE, MR. RUFFINO – AYE, DR. ELGINER - AYE)**

**MOTION CARRIED (3 – 0)**

## Legislative Update

SB 1033 (Hill) Medical Board: disclosure of probationary status.

Mr. Puleo provided the committee with a summary of SB 1033.

Dr. Elginer explained that the Board is hugely supportive of the bill and has discussed this at previous meetings. Dr. Elginer asked if staff knew what positions other Boards intend to take on the bill.

Mr. Puleo shared that the California Medical Board (MBC) and California Medical Association have expressed concern with the concept of patient notification as it has been articulated in this bill. Mr. Puleo would not be surprised if the included Boards had similar concerns; however, the Boards have not been able to meet and take a position on this bill. Mr. Puleo expressed that he would reach out to the Executive Officers of the included healing arts boards to get a sense of positions the Boards may take.

Dr. Elginer: The bill would need to be amended because the BCE is not on BreeZe.

Mr. Puleo explained that the language referring to BreeZe was specific to the Medical Board and that staff would wait until after the bill was amended before requesting amendments.

Dr. Elginer discussed the data included on the bill analysis and suggested staff that pulls the same data to provide to the author's office for inclusion in any future fact sheet.

Dr. Elginer inquired about the potential impact the bill's implementation would have on staff processes.

Mr. Puleo responded that staff would need to amend the regulations related to discipline and probation. Staff would also reach out to legal counsel to determine if any additional sections were needed to accommodate the language contained in the bill. Most importantly, the bill is detailed regarding what the BCE and licensee would be required to do. Mr. Puleo explained that the bill language would probably be included verbatim into the regulation package, assuming the Board supports the bill. Also, the bill would create a legislative mandate that would make the regulatory process simple, requiring less justification of why the regulation was needed.

After reading line 11-15 of the SB 1033 bill text, Dr. Elginer asked Mr. Puleo if the BCE had the same "high risk" and "low risk" categories.

Mr. Puleo responded that the Board would only be subject to these provisions if it were added to these sections. Mr. Puleo shared that these determinations could be made after the author publishes the amendments to the bill. At that point, staff and legal counsel could determine whether a separate section was added to include the BCE or if amendments were needed.

Dr. Elginer referred to page 11 of the bill, sections 23-24. Dr. Elginer asked about the probation option to authorize community service as an alternative to probation. Dr. Elginer shared that

she had not seen and could not think of a case where in lieu of a set of sanctions for probation, a licensee could complete community service.

Mr. Puleo responded that there have been times where the Board has included as part of a stipulated settlement, a requirement that a licensee complete a prescribed number of community service hours as a part of his/her probation. Mr. Puleo further explained that the community service item is an optional probation condition and it would not be in lieu of other conditions but in addition to other prescribed terms.

Dr. McClain asked whether the Medical Board's main opposition to the bill had been addressed. Dr. McClain explained that it was her understanding that the MBC's main issue was disclosure to each patient as they come in.

Mr. Puleo responded that the issue has not been resolved. Further, the language still requires disclosure to every patient on every visit. Mr. Puleo shared that the MBC and CMA's concern is that it takes away from patient care. Also, time spent discussing probation and answering questions could take five or ten minutes of the fifteen minutes spent with the patient. Finally, Mr. Puleo explained that MBC has not met to discuss this.

Dr. Elginer discussed the new proposed language, line 28-29. Dr. Elginer explained that none of the language discussed ethical issues and wondered about fraud as a reason to be on probation. Dr. Elginer suggested that the list was not fully representative of why someone would be on probation.

Mr. Puleo explained that once the Board has been included in the bill, staff could address issues such as fraud with the author's office. Also, he explained, Legislative Counsel could be reaching out to DCA's Legal Office to answer some of these questions.

**Motion: Mr. Ruffino moved to support SB 1033.**  
**Second: Dr. Elginer seconded the motion.**  
**Vote: (Aye: Dr. Elginer, Dr. McClain, Mr. Ruffino)**  
**Motion Passes (3 – 0)**

SB 1155 (Morrell) Professions and vocations: licenses: military service

Mr. Puleo provided the Committee with a summary of SB 1155.

Mr. Puleo shared that staff recommend a neutral position on the bill. Mr. Puleo is concerned that the bill requires existing licensees to subsidize the fee waiver but explained that the Board is definitely in favor of doing everything possible to assist honorably discharged military service members transition to the workforce and remove any barriers to entering the profession. However, Mr. Puleo explains, the Board is supported one-hundred percent by licensee fees and waiving fees on some would raise fees on all existing licensees. Further, the BCE does not have a large amount of former military applying for licensure and the amount waived would be about two-hundred dollars per applicant. Mr. Puleo shared that this is an insignificant amount of money but there may come a time where the BCE is required to waive fees or provide additional services to a specific group and the whole license population would have to pay for it.

Mr. Puleo expressed that in the future, the Legislature could serve all involved by including general fund dollars to cover these expenses.

Dr. Elginer referred to the SB 1155 bill analysis, bullet point four, asking if the requirement to ask every individual applicant whether they have served in the military or is currently serving in the military has any impact on the current application regulation pending at the Office of Administrative Law.

Mr. Puleo responded that the military service question had been amended into the application and that the Board is capturing this information.

Dr. Elginer shared that the bill language requires the establishment and maintenance of a fee waiver program. Dr. Elginer believes that language requires funds to be provided.

Mr. Puleo responded that without a specific appropriation, this is considered an unfunded mandate. The Legislature assumes that the program will absorb any additional cost and if it or the department were unable to absorb the cost, an additional appropriation would be requested.

**Motion: Dr. Elginer moved to take a neutral position on SB 1155.**

**Second: Dr. McClain seconded the motion.**

**Vote: (Aye: Dr. Elginer, Dr. McClain, Mr. Ruffino)**

**Motion Passes (3 – 0)**

SB 1217 (Stone) Healing arts: reporting requirements: professional liability resulting in death or personal injury

Mr. Puleo provided a summary of SB 1217.

Mr. Puleo shared that staff recommends a neutral position because raising the reporting requirement to ten thousand dollars could have no material impact on consumer protection. He explained that it could be more cost effective for a licensee and his/her attorney to settle a claim of less than ten thousand dollars than to go through litigation. Further, Mr. Puleo explained that many times the insurance company makes the decision of whether or not to settle a claim, leaving the doctor without an opportunity to defend him or herself.

Mr. Puleo also shared that there are times where there may be a judgment or settlement alleging patient harm and that the BCE should have an opportunity to review a report and determine whether a violation occurred. This is a policy call for the Board to make.

Dr. Elginer asked if anyone knew why the reporting threshold was set at ten thousand dollars.

Mr. Puleo responded that at the time the author's office was unable to provide information regarding the bill and that that information would be contained in the fact sheet.

Dr. Elginer asked if any consideration was given to taking a watch versus a neutral position on the bill.

Mr. Puleo responded that this is a decision for the Board. Members may need to have a discussion regarding their experiences with insurance companies settling cases or cases where someone makes a claim that was taken over by an insurance company. The Board will need to decide whether it believes that these cases can rise to a level that the Board needs to know. Mr. Puleo suggested consideration be given to cases where a disgruntled patient files a claim and settles, patient not satisfied, could happen repeatedly, rather than report, people paid off, repeat offender, the board doesn't know about.

Dr. Elginer explained that currently, without additional information from the author, the BCE is not in a position to take a position on this bill. However, Dr. Elginer agreed with Mr. Puleo that there may be cases of serial offenders, where the Board would need to be a part of the review process.

Dr. Elginer suggested the Committee takes a neutral position on the bill. Also, she requested that staff follow-up and discusses this bill at the following full Board meeting.

**Motion: Dr. Elginer moved to take a neutral position on SB 1217.**

**Second: Mr. Ruffino seconded the motion.**

**Vote: (Aye: Dr. Elginer, Dr. McClain, Mr. Ruffino)**

**Motion Passes (3 – 0)**

SB 1348 (Cannella) Licensure applications: military experience.

Mr. Puleo provides the Committee with a summary of SB 1348.

Mr. Puleo explained that the current bill, as introduced, does not apply to the BCE. The Board does not currently allow veterans to apply service credit toward licensure. This idea has been discussed in the past with a determination being made that a post-graduate degree is required before an applicant is eligible for licensure. Mr. Puleo expressed that any experience gained in the military would have been vetted during the application process for Chiropractic College. Currently, the Board is unaware of any military programs that are relevant to the practice of chiropractic.

Dr. Elginer suggested the bill language was similar to a prior bill on which the Board took an oppose unless amended position. Dr. Elginer suggested the Committee take a watch position.

**Motion: Dr. Elginer moved to take a watch position on SB 1348.**

**Second: Dr. McClain seconded the motion.**

**Vote: (Aye: Dr. Elginer, Dr. McClain, Mr. Ruffino)**

**Motion Passes (3 – 0)**

### **Discussion of Dates for Future Committee Meetings**

Mr. Ruffino suggests April 7th or April 5th for the upcoming Committee meeting.

**Public Comment For Items Not On The Agenda**

There was no public comment on this agenda item.

**Future Agenda Items**

There were no future agenda items discussed.

**Adjournment**

Dr. Elginer adjourned the meeting at 10:51 am.