



State of California  
Edmund G. Brown Jr., Governor

**Board of Chiropractic Examiners  
TELECONFERENCE MEETING MINUTES  
Enforcement Committee  
July 19, 2017**

**Teleconference Meeting Locations**

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

Sergio Azzolino, D.C.  
1545 Broadway St., Suite.1A  
San Francisco, CA 94109  
(415) 563-3800

John Roza, D.C.  
800 Douglas Blvd  
Roseville, CA 95678  
(916) 786-2267

**Committee Members Present**

Sergio Azzolino, D.C., Chair  
John Roza, D.C.

**Staff Present**

Robert Puleo, Executive Officer  
Beckie Rust, Compliance Manager  
Nikkia Capizzano, Compliance Analyst  
Andreia Mendes, Compliance Analyst  
Marcus McCarther, Policy Analyst  
Spencer Walker, Legal Counsel

**Call to Order**

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

**Roll Call**

Dr. Roza called the roll. All Committee Members were present at the locations listed on the agenda.

**Review and Discussion on the Enforcement Committee Action Items from the 2017- 2019 BCE Strategic Plan**

Mr. McCarther reviewed action items the Committee is responsible for and discussed whether those items have been completed or should be carried over for discussion during this meeting.

Mr. McCarther stated that action item 2.1.4, Publish *Expert Witness Guidelines in the "Licensees" and "Publications" tabs of the Board website*, has been completed. Mr. McCarther explained that the guidebook for expert consultants is available to the public on the Board's website.

Mr. McCarther provided an update on the completion of action item 2.3.2, *Track complaints and outcomes related to cross-cutting enforcement issues*.

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Consumer Complaint Hotline  
(866) 543-1311

Board of Chiropractic Examiners  
901 P Street, Suite 142A  
Sacramento, California 95814  
[www.chiro.ca.gov](http://www.chiro.ca.gov)

Mr. McCarther explained that the compliance unit developed a spreadsheet categorizing the nature of trends in enforcement issues such as social media activity and pastoral medicine practice. This tracking system allows the Board to effectively monitor complaints and outcomes related to these trends and potential violations.

Mr. Puleo shared that the information provided in the spreadsheet is readily available to Board Members should they have any questions related to trends in enforcement issues. Mr. Puleo also explained that our current compliance database presents difficulties in recognizing these trends; therefore, this separate tracking system was recently developed.

**Discussion and Possible Action on the manner in which Enforcement Committee Statistical Information is provided at BCE Meetings (Strategic Plan Action Item 2.1.2)**

Dr. Azzolino referred to statistical reports from other DCA boards as samples for this agenda item: BCE Enforcement Performance Measures Q2 report Oct-Dec 2016; BRN Statistical Summary Jan 2017; Board of Podiatric Medicine Performance Measures Q4 Apr-Jun 2017; and the Physical Therapy Board of California Performance Measures Q3 Jan-Mar 2012. Dr. Azzolino expressed interest in streamlining the existing BCE enforcement data to effectively monitor statistical information and inform stakeholders of the Board's progress towards its enforcement goals.

Mr. Puleo explained that staff compiled statistical report samples from other DCA boards to offer the Committee an opportunity to review and discuss alternatives to existing BCE enforcement data provided at Board meetings.

Mr. Puleo referred to the Strategic Plan action item 2.1.2 and asked if the Committee finds the enforcement statistical information provided at BCE meetings useful. Mr. Puleo also inquired about the Board's preference regarding the enforcement data's format.

Dr. Azzolino inquired about requesting specific enforcement data, such as the number of cases settled via stipulation, in the event that it was not provided at a Board meeting.

Mr. Puleo discussed the current enforcement process for gathering and presenting statistical information at Board meetings. Mr. Puleo stated that providing in depth enforcement data at every Board meeting would be a resource-intensive task; however, the compliance unit can offer specific statistical data to the Board as necessary. Additionally, Mr. Puleo explained that the Board provides detailed enforcement data in our newsletters.

Dr. Azzolino agreed that the level of statistical detail provided in our newsletters is extremely helpful and allows the Board and the public to be informed of specific violations and outcomes.

Mr. Puleo referred to the compliance statistics and the 2016/2017 fiscal year graphs as samples for this agenda item. Mr. Puleo explained that the information presented in these graphs is generally broad. Nonetheless, the compliance unit statistics' report, which is posted on our website every month, presents information related to individual cases.

Mr. Puleo referred to the June 2017 Disciplinary Action report as a sample for this agenda item and suggested that including disciplinary action reports in the enforcement data provided at Board meetings may be useful. Mr. Puleo explained that disciplinary action reports are published on the Board's website every month.

Additionally, Mr. Puleo referred to the BCE Performance Measures as a sample for this agenda item and discussed the purpose of these quarterly reports, which are published on the DCA's website. Mr. Puleo explained that these measures help the Board effectively monitor enforcement goals and inform the public of indicators that may have a positive or negative impact on the Board's performance.

Mr. McCarther suggested providing the BCE Enforcement Performance Measures at Board meetings.

Dr. Azzolino shared that the existing enforcement data provided at Board meetings is satisfactory and recommended an annual update to the Board regarding the BCE performance measures.

Dr. Roza agreed that it would be ideal for the Committee to provide these enforcement measures to the Board yearly as some of the statistical information may be redundant if presented on a regular basis.

The Committee determined that the quarterly enforcement performance measures will be reviewed at Committee meetings. If an issue arises during the review of the enforcement measures, the Committee will bring it forward to the full Board for discussion and possible action. The Committee also agreed to maintain the existing enforcement statistical information as is.

### **Review, Discussion and Possible Action on creating an Outreach Publication Educating the Public on the Complaint Process (Strategic Plan Action Item 2.1.3)**

Mr. Puleo stated that the Committee is in the process of developing a consumer complaint brochure and it will contact the DCA's publication office to select an appropriate format.

Mr. Puleo referred to the current BCE complaint process as a sample for this agenda item and explained that this information is available on the Board's website. Mr. Puleo stated that the public may file a complaint on our website by clicking on the "File a Complaint" red button.

Mr. Puleo referred to the Contractors State License Board, the Medical Board of California, and the Board of Vocational Nursing/Psychiatric Technicians consumer complaint brochures as samples for this agenda item. Mr. Puleo explained that the BCE consumer complaint brochure's content is similar will be similar to the materials provided as samples.

Dr. Azzolino discussed the importance to inform complainants of their right to remain anonymous and suggested adding a statement to the BCE consumer complaint brochure regarding the Board's acceptance of anonymous complaints.

Mr. Puleo agreed with Dr. Azzolino and asked Mr. Walker if he had any reservations regarding Dr. Azzolino's suggestion.

Mr. Walker responded that the Board may include a statement to that effect.

Mr. Puleo recommended working with our legal counsel on the language for anonymous complaints.

Mr. Puleo discussed issues that may arise if a complaint is anonymous. Mr. Puleo also explained that the Board accepts anonymous complaints; however, if the complainant is unwilling to come forward or testify at a hearing, the Board may have difficulty proving the alleged violations.

Ms. Rust stated that if a complaint is related to patient care, the Board requires patient records to proceed with the case. Ms. Rust also explained that if the patient chooses to remain anonymous, the Board will not be able to move forward with the case.

Mr. Puleo stated that the Board may not need to obtain patient records to prove other types of complaints such as advertising.

Mr. Puleo expressed concern regarding the desired efficacy of BCE complaint brochures and discussed possible ways to disseminate this information to the public.

Dr. Azzolino stated that it is important to inform the public of the BCE complaint process in an effective manner. Dr. Azzolino inquired how other Boards are disseminating this type of information.

Mr. Puleo explained that other boards are taking a similar approach to ours as they work with the DCA's publication office to develop and display brochures at the DCA headquarters' lobby.

Mr. Puleo suggested that distributing these brochures at licensees' facilities may be an effective approach; however, licensees may not feel comfortable providing instructions on filing a complaint to their patients.

Dr. Azzolino suggested that sharing these outreach materials on the BCE's social media may be an effective way of reaching out to the public. Dr. Azzolino added that the Board should encourage chiropractors to display these brochures at their offices.

Mr. McCarther suggested creating a BCE complaint process web video and posting it on the Board's website. Mr. McCarther also discussed the DCA's effective social media strategy to disseminate various outreach materials through videos.

Dr. Azzolino asked if the Board would be able to create a BCE complaint process video to inform the public.

Mr. McCarther stated that the video can be directed to consumers and licensees informing them of the Board's complaint process and providing guidance on how to file a complaint on the Board's website.

Mr. Puleo agreed with Mr. McCarther's suggestion and stated that, in addition to using the BCE's complaint process paper brochures, it may be beneficial to reach out to consumers on social media.

Dr. Roza believes that distributing these outreach materials to recent graduates of chiropractic schools would also be an effective way to inform them of the BCE complaint process.

Mr. Puleo agreed with Dr. Roza and stated that the Board could contact chiropractic colleges to make these brochures available on campus and at various school events.

Ms. Jillian Hacker, Director of Government Affairs and Operations of the California Chiropractic Association (CCA), suggested that the Board should offer training courses to licensees regarding the complaint process and provide CE credit for their attendance. Additionally, the Board should distribute these outreach materials during CE courses and address the top 10 common enforcement violations in the profession.

Dr. Azzolino explained that the Board has provided information on common violations to licensees and has asked CE providers to share them with licensees attending courses for CE credit.

Dr. Azzolino inquired if the top 10 common violations have been published in the Board's newsletter.

Mr. Puleo stated that they will be included in the Board's newsletter as an article.

Dr. Roza suggested asking CE providers to share these brochures with licensees attending courses for CE credit.

Dr. Azzolino explained that these outreach materials are specifically designed for consumers. Dr. Azzolino added that the Board should make the BCE consumer complaint brochures available at chiropractic offices.

**Discussion and Possible Action on Establishing a Code of Ethics (Strategic Plan Action Item 2.2.1)**

Dr. Azzolino stated that he read the CCA and ACA's code of ethics and there is an inherent issue with the Board adopting a code of ethics.

Mr. Puleo shared that the Board mandates minimal professional competencies for licensees. Mr. Puleo also stated that a code of ethics are guidelines that licensees should strive for. However, the Board cannot require licensees to adhere to them.

Dr. Azzolino recommended not enforcing a code of ethics and encouraged other institutions, such as the CCA or ACA, to inform licensees of their responsibilities to the public and the profession.

Dr. Azzolino asked legal counsel for advice.

Mr. Walker agreed with Dr. Azzolino's recommendation and asked if he would like to propose a formal recommendation at the upcoming Board meeting or provide an update to the Board regarding the decision to not adopt a code of ethics on the grounds that it is not enforceable.

Mr. Puleo explained that this issue has been addressed at a previous Board meeting and the Board should be notified of the Committee's decision to not move forward with a code of ethics adoption.

**Discussion and Possible Action on the Efforts to Educate Licensees' about Enforcement Issues Related to Social Media (Strategic Plan Goal Item 2.4)**

Dr. Azzolino encouraged the CCA to take a proactive approach by informing licensees of the issues associated with social media activity. Dr. Azzolino explained that social media violations related to patient confidentiality could possibly taint the public perception of the profession.

Mr. Puleo discussed common violations on social media and how licensees may be unaware of patient confidentiality regulations.

Additionally, Mr. Puleo suggested asking CE providers to address potential social media violations at mandatory CE courses for licensees.

Mr. McCarther suggested using the BCE's social media to inform licensees of how to avoid possible violations related to social media activity. Mr. McCarther also proposed sharing links to HIPAA compliance articles that offer a strategy to help eliminate exposure to potential violations.

Ms. Mendes suggested creating a BCE newsletter article that will address case studies of licensees interacting with patients on social media and providing examples of common violations.

Dr. Azzolino agreed with Ms. Mendes' suggestion and recommended that staff review National Chiropractic Mutual Insurance Company (NCMIC) case studies for examples to be included in the BCE's newsletter article.

Dr. Azzolino referred to the articles as samples for agenda item 6: Compliance Today, Keeping Social Media HIPAA-Compliant, and Stung by Yelp Reviews Health Providers Spill Patient Secrets. Dr. Azzolino suggested that sharing these articles on the BCE's social media informs licensees of potential risks associated with social media activity.

Mr. Puleo asked Mr. Walker if he had any reservations regarding Dr. Azzolino's suggestion.

Mr. Walker responded that there are no copyrights in the articles provided and the Board may use them.

Mr. Puleo agreed with Dr. Azzolino's suggestion as licensees may have an interest in reading about these issues.

Ms. Dawn Benton, Executive Director of the CCA, announced that CCA publishes a weekly newsletter and stated the Board could use it to share information with its licensees.

**Public Comment for Items not on the Agenda**

N/A

**Future Agenda Items**

N/A

**Discussion of Dates for Future Committee Meetings**

N/A

**Adjournment**

Dr. Azzolino adjourned the meeting at 1:55 p.m.