



BOARD OF CHIROPRACTIC EXAMINERS PUBLIC SESSION MINUTES

October 29, 2020
Teleconference

Board Members Present

David Paris, D.C., Chair
Dionne McClain, D.C., Vice Chair
Frank Ruffino, Secretary
Laurence Adams, D.C.
Sergio Azzolino, D.C.
Heather Dehn, D.C.

Staff Present

Robert Puleo, Executive Officer
Marcus McCarther, Assistant Executive Officer
Helen Geoffroy, Senior Attorney
Clay Jackson, Attorney
Dixie Van Allen, Licensing and Continuing Education Manager
Kristin Walker, Enforcement Manager
Tammi Pitto, Enforcement Analyst
Natalie Boyer, Licensing Analyst
Amanda Campbell, Licensing Analyst

1. Call to Order

Dr. Paris called the meeting to order at 9:09 a.m.

Roll Call

Mr. Ruffino called the roll. All members were present and a quorum was established.

2. Chair's Report

Dr. Paris congratulated and welcomed the newly appointed Board Member, Dr. Laurence Adams, D.C.

Dr. Paris thanked the Governor's Office and the Department of Consumer Affairs (DCA) for the newest waiver released on September 23, 2020, DCA-20-63, which allows licensees to complete all 24 hours of continuing education (CE) requirements online and addressed the concerns of licensees.

Dr. Paris stated that the Board has been continuing to engage with the community and meet with stakeholders, including colleges and associations, and the Board has continued to participate with the National Board of Chiropractic Examiners (NBCE) testing and has maintained an active role in the Federation of Chiropractic Licensing Boards (FCLB). He added that his ongoing goal is to continue to make the Board available to stakeholders and increase engagement with the community. Dr. Paris has been researching opportunities to meet this goal, but noted the Board is seeing the results of this engagement through the increase in participation at Board Meetings.

Dr. Paris urged licensees to follow the guidelines set by the Center for Disease Control (CDC) and California Department of Public Health (CDPH)

Dr. Paris congratulated Marcus McCarther, Assistant Executive Officer of the Board of Chiropractic Examiners, on his appointment to Chief Deputy Commissioner of the Real Estate Department by the Governor's Office.

Mr. McCarther thanked the Board and Mr. Puleo for the opportunity to work with this valuable profession and stated that he enjoyed his time with Board.

Dr. Paris thanked Dr. Azzolino and Dr. Dehn for their dedication to the Board and their achievements during their respective terms which end on February 10, 2021.

Dr. Azzolino stated that it has been an honor to serve the Board. He has been proud of their spectacular team and hopes the Board will continue to unify and elevate the profession.

Dr. Dehn enjoyed the challenges from serving on the Board and learned a tremendous amount from seeing the profession from the different prospective of patient protection. Dr. Dehn stated that she will be in the audience during future Board Meetings where she is much more comfortable.

Public Comment: None

3. Approval of July 16, 2020 Board Meeting Minutes

MOTION: DR. DEHN MOVED TO APPROVE THE MINUTES OF THE JULY 16, 2020 BOARD MEETING.

SECOND: DR. AZZOLINO SECONDED THE MOTION.

Discussion: Dr. McClain noted a correction to be made on page three of the minutes. She stated that in the motion under Ratification of Approved Continuing Education Providers, it should state "Dr. Dehn" as opposed to "Mr. Dehn".

MOTION: DR. AZZOLINO MOVED TO APPROVE THE MINUTES OF THE JULY 16, 2020 BOARD MEETING WITH THE PROPOSED EDITS.

SECOND: DR. DEHN SECONDED THE MOTION.

VOTE: 5-0, (DR. PARIS-AYE, DR. MCCLAIN-AYE, MR. RUFFINO-AYE, DR. DEHN-AYE, DR. AZZOLINO-AYE, DR. ADAMS-ABSTAIN).
MOTION: CARRIED.

Public Comment: None

4. Ratification of Approval of License Applications

MOTION: DR. DEHN MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS.
SECOND: DR. MCCLAIN SECONDED THE MOTION.

Discussion: None

VOTE: 6-0, (DR. PARIS-AYE, DR. MCCLAIN-AYE, MR. RUFFINO-AYE, DR. DEHN-AYE, DR. AZZOLINO-AYE, DR. ADAMS-AYE).
MOTION: CARRIED.

Public Comment: None

5. Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing

There were none.

Discussion: None

Public Comment: None

6. Ratification of Approved Continuing Education Providers

MOTION: DR. AZZOLINO MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDERS.
SECOND: DR. DEHN SECONDED THE MOTION.

Discussion: None.

VOTE: 6-0, (DR. PARIS-AYE, DR. MCCLAIN-AYE, MR. RUFFINO-AYE, DR. DEHN-AYE, DR. AZZOLINO-AYE, DR. ADAMS-AYE).
MOTION: CARRIED.

Public Comment: None

7. Nomination of Board Officers for 2021. The Board will Initiate Nomination Procedures for Board Officer Positions: Chair, Vice Chair, and Secretary.

Mr. Puleo called the roll for nominees for each position.

Nominees for Chair:

- Dr. Adams – No nomination.
- Dr. Azzolino – No nomination.
- Dr. Dehn – Dr. Paris.
- Dr. McClain – Self-nominated.
- Mr. Ruffino – No nomination.
- Dr. Paris – No nomination.

Dr. Paris and Dr. McClain both accepted the nomination.

Nominees for Vice Chair:

- Dr. Adams – No nomination.
- Dr. Azzolino – Dr. Paris.
- Dr. Dehn – No nomination.
- Dr. McClain – No nomination.
- Mr. Ruffino – No nomination.
- Dr. Paris – Dr. McClain.

Dr. Paris and Dr. McClain both accepted the nomination.

Nominees for Secretary:

- Dr. Adams – No nomination.
- Dr. Azzolino – Mr. Ruffino.
- Dr. Dehn – No nomination.
- Dr. McClain – No nomination.
- Mr. Ruffino – No nomination.
- Dr. Paris – Mr. Ruffino.

Mr. Ruffino accepted the nomination.

The Board discussed whether a motion to close the nominations was necessary.

Mr. McCarther stated that previously the Board had agreed on the nomination and election process and that nominations should remain open until the election.

Ms. Geoffroy stated that a motion could be made to close the agenda item pending additional nominations.

MOTION: MR. RUFFINO MOVED TO CLOSE THIS AGENDA ITEM PENDING ADDITIONAL NOMINATIONS.

SECOND: DR. AZZOLINO SECONDED THE MOTION.

Discussion: None.

VOTE: 6-0, (DR. PARIS-AYE, DR. MCCLAIN-AYE, MR. RUFFINO-AYE, DR. DEHN-AYE, DR. AZZOLINO-AYE, DR. ADAMS-AYE).

MOTION: CARRIED.

Public Comment: None

8. Executive Officer's Report

A. Administration - Board staffing/organizational chart

Mr. Puleo stated the Board has three vacancies, not including the position of Assistant Executive Officer. Mr. Puleo thanked Mr. McCarther for his time with the Board and congratulated him on his appointment and stated that Mr. McCarther's last day would be October 30, 2020.

Mr. Puleo stated that there are currently two vacancies in the Enforcement Unit; one is a new Seasonal Clerk position and the other a Staff Services Analyst position. He added that there is one vacancy in the Licensing Unit for the Management Services Technician position.

Mr. Puleo included that a Seasonal Clerk position has been added to each unit to assist Board staff due to the increased stress on resources from the pandemic and the unforeseen challenges working remotely has brought. He added that he hopes to fill the remaining vacant positions early in 2021 to further aid Board staff.

B. Budget - Fund Condition Update

Robert DelosReyes, DCA's Budget Officer, spoke before the Board regarding the Board's current Fund Condition. Mr. DelosReyes updated the Board on the current Analysis of Fund Condition. He stated that in fiscal year 2021-22, there's a structural fund imbalance and that the Board is expected to collect one million dollars less than what it is planned to spend in each following fiscal year, but noted that this is based on a few assumptions. He noted that this report includes the final figures on revenue and expenditures for the 2019-20 fiscal year. Mr. DelosReyes notified the Board that DCA has transitioned into a new statewide accounting system and that although there have

been challenges, it has allowed DCA to send each Board monthly fiscal reports and has made the closing out of fiscal years more efficient.

Mr. DelosReyes specified that the revenue estimates have been provided by the Board and is an estimate for what will be collected. He added that this analysis includes the loan repayment to the Bureau of Automotive Repair (BAR), beginning this fiscal year, in the amount of \$250,000 annually until loan obligation has been fulfilled. He reminded the Board that this was necessary to help pay a large settlement in the fiscal year of 2013-14 or 2014-15 and that an estimated 1.4 million dollars is unpaid.

Mr. DelosReyes explained that the expenditures on this report is a conservative estimate of what the Board will spend in the next few fiscal years and that it includes the current schedule of costs for the new IT systems (otherwise known as the “BizMod project”) as well as any anticipated reductions in spending, such as the reduction in staff salaries of approximately 9% and a reduction in benefits.

Mr. DelosReyes clarified that the fee increase that went into effect on January 1, 2019 did not take several unforeseen factors into consideration. The fee study behind the fee increase did not account for the BizMod project because the numbers weren’t available at the time, nor did it account for the raised rates of the Attorney General’s Office and the Department of Justice.

Mr. DelosReyes stated that with these assumptions, in the fiscal year of 2021-22, there is a shortfall of roughly \$20,000. While this is manageable for avoiding a potential insolvency, the main concern is that in fiscal year 2022-23 this shortfall becomes unmanageable.

Mr. DelosReyes declared that action needs to be taken by the next fiscal year; that the Board will need to reduce expenditures to close the one-million-dollar gap identified or the Board will need to increase fees.

Dr. McClain asked if there was a plan to do another fee increase study.

Mr. Puleo stated that Board staff are preparing to solicit bids from independent consultants and a new fee study will be conducted in early 2021.

Dr. Azzolino asked how the Board’s fees compared to other Boards such as the Medical Board and Osteopathic Medical Board.

Mr. Puleo stated that though he doesn’t know specifics, he stated that the Board is comparable to other healthcare boards within California. The main difference would be that our Board has an annual fee while others are biennial. Also, the per-licensee expenditures are greater for small programs, such as ours, due to economies of scale.

Mr. McCarther added that the biennial renewal fee for the Medical Board of California is \$820.

Mr. Puleo stated that this amounts to \$410 each year, which is significantly more than the Board's current fee.

Dr. Azzolino asked for metrics on the cost per licensee to see how much it is to run the Board and how other Boards are doing in regard to their budget. He stated that a fee increase is inevitable, but the Board needs to be prepared to show those figures to justify the increase to the public.

Mr. Puleo agreed and stated that a fee increase will not be taken lightly. He added that the Board is frugal and has been dealing with staff vacancies and outdated IT equipment to try to keep costs down as much as possible. He says that the Board has continuously looked for and implemented methods to reduce expenditures but there's only so much that can be done while keeping licensure and enforcement running. The independent fee study will take everything into account and will evaluate the length of time it takes for staff to complete a task and how much it costs. He added that this information would be available to the public.

Dr. Azzolino asked if the independent fee study could reveal a need to increase enforcement case costs as opposed to licensing fees because the average law-abiding licensee shouldn't have to carry these costs.

Mr. Puleo stated that for the most part, in the more egregious cases that go to an Administrative Hearing where an accusation is filed, the biggest cost is the Attorney General's fees and those are usually recoverable when the case is settled, or the Board is awarded cost-recovery by the Administrative Law Judge (ALJ). However, it is at the ALJ's discretion to reduce the cost. For example, if the fees are \$15,000, the ALJ can cut them in half and the Board doesn't have control over some of these aspects. The Board can recover some costs through fines, but will never fully recover the costs of enforcement, as is the case for every board. Licensees do have to subsidize the cost of enforcement.

Dr. Azzolino asked if staff resources, such as time, are ever recovered.

Mr. Puleo stated that the Board cannot recover the costs of office staff. However, we can recover investigative costs, including time our field investigators spend working on a case.

Dr. McClain agreed with Dr. Azzolino and asked if there was a way of looking at the average cost of enforcement compared to that of the Medical Board and Osteopathic Board. Dr. McClain asked if the Board could increase revenue from enforcement cases since the Board only recovers those costs for those who are being disciplined if the licensee wants to be reinstated or remain licensed. She asked if there was a way to change how this works and assess penalties for those who have outstanding balances.

Mr. Puleo stated that the Board has asked these questions of the Department of Justice

in the past and was told that it is very challenging legally. The Board would be challenged and would likely not be successful. The law limits a program's ability to recover enforcement costs, which is probably intentional, so the enforcement and disciplinary processes are not used to increase revenue.

Mr. Puleo added that the enforcement costs for the California Medical Board are astronomical and estimated that the cost is in the tens of millions. He stated that their cases are very complex and highly contested, and they are precluded by law from recovering those costs. He stated that each Board will have different costs, but that enforcement is very expensive across all Boards and will take up most of the budget. He added that the Board is very diligent about recovering costs when applicable and has set up payment plans for those suffering economic hardships. All tools at the Board's disposal are being used and the Board has a good success rate for recovering what is owed.

Dr. McClain asked if the Board is precluded in any way from increasing the Board's fine and citation amounts.

Mr. Puleo stated that the law limits the Board to \$5,000 as the maximum for fines and the Board imposes fines based on the specifics of each individual case. For a first-time offender or minor offense, the fine will be lower than that of a repeat offender or more egregious offense. He stated that the higher the fine, the more likely it is to be contested, which would result in more unrecoverable costs for the Board.

Dr. McClain asked if it was possible to increase the fees for each of these levels slightly, so as not to trigger an appeal, but would still increase revenue streams to aid the Board. Dr. McClain added that perhaps the licensees should be reminded that it is the general licensee population as a whole that incurs the cost of enforcement and that perhaps this should be brought up during the Ethics portion of Continuing Education (CE).

Mr. Puleo agreed that it is the law-abiding ethical licensees who end up subsidizing the ones who commit violations so the licensee population in general should keep this in mind and put pressure on those who do not follow the law. He hypothesized that if the cost of enforcement went way down, or if there was no enforcement required because everyone followed the law, then the cost of licensure would decrease significantly. He stated that every licensee of every profession should keep this in mind when another licensee violates the law; it not only makes the profession look bad, but also costs the profession money.

Mr. Puleo also stated that the Board cannot incrementally raise fines for the aforementioned levels of citations because the fine must be proportionate to the violation, and is a case by case basis with many variables, which is why there is no set guideline for how much a citation should be for each violation. He added that if there was such a guideline, it would need to be in the Board's regulations.

Dr. Azzolino asked when the last time the Board had sat down with the legislature or

Governor and discussed this issue to take some of the burden from the law-abiding licensee.

Mr. Puleo stated that he would check in with other Board's to see if they have attempted anything, but that he couldn't think of anything the Board could do because the licensee is entitled to due process; in order to provide a licensee with a fair investigation and a fair hearing, it is time-consuming and costly. The way the law is written, likely for the Department of Justice as well, it costs more to do an investigation than what will be recovered. Mr. Puleo stated he will reach out to the other Boards and the Department to see if there is anything that can be done. He added that the Board has a diminishing licensee population, which will be discussed in a later agenda item, but that ultimately means that the cost for each licensee will be higher. He noted that there are multiple challenges the Board is facing.

Dr. McClain asked Mr. Puleo if the Board members could see a sample of a few offenses and the fines received for those offenses so they could have an idea for where fines could justifiably be increased or to have an understanding.

Mr. Puleo stated that the big costs are not the citations, it's the accusations and the major violations that involve investigations and having the Department of Justice prepare an accusation, which will often go to a hearing. This is where the costs get very high and these are the cases where the Board will never fully recover the costs. He added that the Board can recover the investigative cost and the Attorney General cost, and as mentioned prior, these can be reduced. However, these are not arbitrary and are based on the actual cost of investigating and litigating the case. The citations and fines are more of a deterrent and a reminder that licensees cannot violate the law, but citations alone will not recuperate the cost of enforcement. He stated that no Board can recover the cost of an administrative hearing, which can be highly expensive. The only costs that can be recovered are the attorney and investigation expenses. Mr. Puleo stated he would be happy to provide the data Dr. McClain is requesting.

Mr. Puleo thanked Mr. DelosReyes for his time and the detail he provided the Board. He then introduced Mr. Sean O'Connor, Chief of Project Delivery and Administrative Services within the Office of Information Services (OIS) who is performing the role of Project Director for the Business Modernization (BizMod) effort for DCA.

Moved to Agenda Item 8E. OIS - Update

Mr. O'Connor stated that his goal is to provide a project update status, what they have accomplished to date, and what they have planned for the future. Mr. O'Connor stated that this project began in late January of 2020 and the software that is aiding in this integration and modernization is from a company called inLumon which has implemented their software in other government entities throughout the United States. Mr. O'Connor stated that this program has been internally branded as "Connect" as it allows the Boards and Bureaus to connect more efficiently and effectively with their licensees and provide expanded online services. Mr. O'Connor stated that the Board is

one of four programs first included in this Business Modernization implementation effort and they share program costs based on each program's complexity and size.

Mr. O'Connor stated that the project just concluded a major development effort which took about seven months to complete and included participation from many of the Board's staff with assistance from IT support. The first major software release was on September 16, 2020. With this release, the scope of online functionality for the Board now includes chiropractic initial license applications, address changes, and the ability to see what stage an application is at during review. The functionality also allows the licensee to receive text message and email updates regarding the status of their application and to be notified if there were any required components missing. Previously, applicants would be sent these notifications via the mail.

Mr. O'Connor added that despite the soft release, with no big social media push, there have been 45 applications started online for the Board; eight of which have been submitted to staff for review. Mr. O'Connor stated that the team worked hard to include chiropractic license renewal applications with the September launch, however due to the release of a new continuing education waiver regarding the COVID-19 pandemic, this release was put on hold so that the new system could be updated. He claimed that the new online license renewal portal would be up in a few days. Mr. O'Connor mentioned that the temporary online renewal system that had been in place received nearly 6,000 chiropractic licenses, 1,200 satellite licenses, and just over 300 corporation licenses renewed online since its launch which is nearly two million dollars transacted online. Mr. O'Connor stated that one of the benefits to renewing online is that it is more efficient as there is rarely a need for staff intervention, and they can be processed quickly as the license is typically renewed within 24 hours of submittal.

Mr. O'Connor identified that the next phase of software implementation is scheduled for early January and would include adding the initial and renewal applications for satellite offices as well as corporation renewals. They are also working on enhancing some of the minor aspects of the system and addressing any bugs or issues that have come up since the launch. Mr. O'Connor stated that for a project of this size, the number of bugs identified is relatively low.

Mr. O'Connor addressed the cost of the program and stated that to date, the cost of the program is trending towards coming in under budget. He stated that the project is about halfway through the planned project period but that they have only expended about 34% of their allowed budget, which is at about 13.3 million dollars split across the four programs. He stated that the caveat is that this number includes redirected staff costs that the program would have incurred regardless.

The net cost for the Board was originally at about 1.4 million dollars over the 18-month period. Mr. O'Connor says that to date, 355,000 dollars is the amount spent by the Board. Mr. O'Connor stated that they achieved savings through negotiations on contracts to keep the costs down.

Mr. O'Connor acknowledged the hard work done by the Department and Board staff to accomplish this project. He stated that the strategy for this project has been to collaborate and communicate effectively on a daily basis with the Board staff setting the priorities for what the project should focus on. Mr. O'Connor thanked Mr. Puleo, Mr. McCarther, and Ms. Walker for their commitment to the project and their dedication.

Mr. Puleo asked if it would be possible to incorporate a process wherein information is sent digitally to Board members regarding disciplinary orders, Administrative Law Judge decisions, and stipulated settlements and where the Board members could cast their votes digitally with the Board Chair signing it electronically.

Mr. O'Connor answered that he doesn't see a reason why this feature couldn't be added from a technological perspective. He added that they would work with Board staff to determine timing on whether this feature would be added during the planned 18-month project period or afterward during the planned maintenance and operations enhancement period. Mr. O'Connor added that this would be beneficial to the other programs participating in this project.

Mr. McCarther stated his belief that this functionality was included in the initial scope for the project.

Mr. O'Connor stated that there should be no issue with this feature.

Dr. Paris thanked Mr. DelosReyes and Mr. O'Connor for their thorough updates and asked to open public comment in case there were any questions for Mr. DelosReyes and Mr. O'Connor so that the Board could move forward with the Licensing and Enforcement Statistical Trends of the EO Report afterward.

Public Comment: None.

C. Licensing - Statistical Trends

Mr. Puleo stated that there have been no major changes to the licensing trends since the last Board Meeting and asked if the Board members had any questions for Ms. Van Allen. Mr. Puleo confirmed that there were no questions and moved forwards with the enforcement trends.

D. Enforcement - Statistical trends

Mr. Puleo reaffirmed that there had been no major changes to enforcement trends since the last meeting but asked if Ms. Walker had any significant updates to highlight.

Ms. Walker notified the Board that the statistics are comparable to what the Board has been seeing all year and the analysis done of the 2019-20 fiscal year in July. The noticeable changes are to the number of complaints received which are trending lower primarily due to the pandemic and a number of waivers which have been issued

regarding continuing education which has resulted in less failed CE audits.

Ms. Walker stated that the Board is on track to have a total of 500 complaints by the end of the year. She added that the number of pending complaints has been trending upwards for the past five years and stated that she would like to look into this matter more thoroughly, but hypothesized that it could be because staff are teleworking due to the COVID-19 pandemic, vacancies in the enforcement unit, and the unit has a significantly higher workload than historically seen. Ms. Walker stated that she and Mr. Puleo have been regularly meeting with staff and providing guidance to the analysts on what to prioritize. Andreia McMillen, the Board's Policy Analyst, is assisting the enforcement unit because she has prior enforcement experience, and they are in the process of hiring a seasonal clerk to help with the clerical duties to free up the analysts' time so they can focus on their cases.

Ms. Walker identified that the Board hasn't been receiving any proposed decisions for the Board regarding disciplinary cases because there are currently no hearings and no incentives for the defendant to negotiate a settlement due to delays from the COVID-19 pandemic but expects that there will be an increase in closures going to the Board members for mail votes.

Public Comment: None

9. Update, Review, Discussion and Possible Action on Long-Term Healing Arts Programs Licensing Trends

Ms. Boyer gathered information from the Healing Arts Board's annual reports to DCA. She confirmed that the Chiropractic licensee population has been decreasing while the other Boards have an increasing licensee population over the last three to four years.

Dr. Paris stated his concern that every other healthcare population has been growing while chiropractic has been trending in the opposite direction. Dr. Paris added that in a time where current issues with pain and healthcare, there is a need for increased access to conservative care. Dr. Paris asked for comments or thoughts from the Board on the establishment of a focus group or Ad hoc committee that includes stakeholders, such as the colleges, to further research this issue and provide solutions.

Dr. Azzolino thanked the staff for putting this together and asked if once or twice a year a similar document could be presented for trends throughout the country. He added that he believed the reason that the population is decreasing while others are increasing is because other professions' scope of practice have increased while chiropractic's is very limited. Dr. Azzolino agrees that a focus group could be beneficial but affirms that there are polarizing opinions on what should be done. He added that in prior discussions with Dr. Craig Little of the Council on Chiropractic Education (CCE), the limitations of the

Chiropractic Initiative Act will make it difficult for schools in California to be in compliance with CCE initiatives.

Dr. McClain stated her agreement with Dr. Azzolino in regard to the licensing trends.

Dr. Dehn mentioned that the issue of reimbursement needs to be discussed as well.

Dr. Paris asked Mr. Puleo and Ms. Geoffroy if it was necessary to make a motion to form an Ad hoc committee or focus group.

Mr. Puleo commented that it may be best to have an internal discussion regarding what type of committee would be best prior to the Board making a formal motion.

Ms. Geoffroy concurred with Mr. Puleo.

Dr. Azzolino agreed that further discussion would be needed to determine what the desired outcome would be and asked Dr. Paris for his thoughts.

Dr. Paris agreed with the Board members and stated that it would be a detriment to the people to not have access to the conservative care that chiropractic provides. He stated his goal is to hear from the Board's stakeholders and to make sure that the Board has a well-rounded view of the issues and to see if there are any actions that the Board can undertake to rectify the situation.

Mr. Puleo agreed that stakeholder participation is critical because the Board plays a part in this and there are things the Board can and is willing to do, such as changes that will help facilitate the resolution of this matter, but it is something that the profession as a whole needs to initiate. As a regulatory program, the Board is limited in how much it can affect. All the Board can do is eliminate provisions in the Board's regulations or Initiative Act that may be impeding licensure or the profession. He added that there are myriad issues beyond the Board's control, such as in other jurisdictions like the Federal government or from the profession itself. Mr. Puleo agreed it needs to be a partnership and is not something the Board can or should resolve on its own.

Dr. Paris agreed but affirmed that the Board should initiate discussions.

Dr. McClain asked if the Board should internally look at what the Board's part should be before reaching out and discussing anything further with stakeholders and to evaluate where the Board can and should attempt to make an effect.

Dr. Paris stated this his goal is to have a well-rounded view when making these determinations.

Dr. Azzolino agreed but questioned what the Board could do as this isn't an issue that a regulatory program can accomplish and stated it is more appropriate for the chiropractic associations and chiropractic colleges to address this issue.

Dr. Paris added that by having this conversation today, the Board has generated ideas for possible solutions. Dr. Paris reaffirmed that his concern is that a full view is needed from the stakeholders.

Dr. Azzolino stated that this is an ongoing issue and that around six years ago, they had a meeting with the leaders of chiropractic colleges and associations to discuss solutions, but nothing came of it.

Dr. McClain agreed and stated the Board needs to discuss what the Board's role could and should be, and if the Board cannot act then they should individually make suggestions to the entities that can.

Mr. Puleo commented that there is not much the Board can do but that he's willing to do whatever the Board is capable of to improve how the Board regulates the profession and to be an asset to the profession; however, he asserted the Board's mandate is consumer protection and currently the Board is operating with a small staff and very limited resources to the point where the Board is struggling to keep up with the current workload. He added that the Board does not have the resources to research and hire consultants. Mr. Puleo identified the considerable effort and staff resources that have been used to research this issue and bring stakeholders together already. The Board is interested and engaged in this issue and willing to participate in finding a solution, but if the profession isn't addressing this and looking into solutions to move the profession forward, there is little the Board can do.

Mr. Puleo concluded that any barriers to licensure the Board has in place are minimal and if this profession was a viable option for people to enter a profession, they would. He stated that he is very mindful of the fact that everything the Board does affects the profession. He added that this is a national trend and while he believes the Board should be supportive, there are limitations and it cannot be the Board who solves this problem.

Dr. Azzolino thanked Mr. Puleo for his input and agreed that the reality is that if others are willing to make a change, the Board will be supportive in every way possible, but the Board cannot do it, the profession and stakeholders need to put in the effort to make a change.

Dr. Paris stated that he understands Mr. Puleo and Dr. Azzolino's points of view but would like the Board to initiate the conversation so that other entities may make progress.

Mr. Puleo stated that he would research options for committees but advised that the Board needed to be firm about what role it can provide and encouraged stakeholders to contribute to the discussion.

Public Comment: Dawn Benton, Executive Director of the California Chiropractic Association (CCA), stated that the Association would be happy to contribute to the conversation in whatever way possible.

Moved to Agenda Item 11 - Update, Discussion and Possible Action on Enforcement Committee Meeting Agenda

Ms. Walker stated the Board met on October 16, 2020 and discussed an update on the Board's expert witness program. Staff have compiled sample reports from experts to create a template for consistency and as a baseline to evaluate writing samples as the Board moves into the recruitment process in 2021.

Ms. Walker stated that the committee had a discussion regarding the top ten enforcement violations and compiled a list of the most common violations that resulted in either a citation or disciplinary action taken by the Board. Staff is going to use this data to develop separate outreach materials for the public, such as a guide for what to expect during a chiropractic visit, and advise licensees on common issues that they can avoid so they don't come into contact with the enforcement unit. The Committee received an update on the Enforcement Program's statistical data and requested more detailed information regarding the source of the complaints received and examples of the complaints categorized as "unprofessional conduct." Staff is developing reports that contain this data and will present them to the Enforcement Committee for discussion at the next meeting.

Ms. Walker notified the Board that the Board's citation system has been established through CCR, title 16, sections 390-390.6. However, the system does not contain the following required provisions: If a hearing is not requested, payment of any fine shall not constitute an admission of the violation charged. (BPC section 125.9(b)(4)); Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine. (BPC section 125.9(b)(5)).

Ms. Walker noted the staff proposed amendments to CCR, title 16, sections 390.4 and 390.5 in order to add these required provisions to the Board's citation system. Additionally, staff proposed an amendment to CCR, title 16, section 390.4 to change the deadline for requesting an informal conference from 14 days after service of the citation to 30 days of the date of issuance of the citation, for consistency with the deadline for requesting a formal administrative hearing.

MOTION: DR. AZZOLINO MOVED TO APPROVE THE REGULATORY LANGUAGE AS PROPOSED TO AMEND CCR, TITLE 16, SECTIONS 390.4 AND 390.5, AND DELEGATE AUTHORITY TO THE EXECUTIVE OFFICER TO MAKE NON-SUBSTANTIVE CHANGES AND COMMENCE THE RULEMAKING PROCESS.

SECOND: DR. MCCLAIN SECONDED THE MOTION.

Discussion: None.

VOTE: 6-0, (DR. PARIS-AYE, DR. MCCLAIN-AYE, MR. RUFFINO-AYE, DR. DEHN-AYE, DR. AZZOLINO-AYE, DR. ADAMS-AYE).

MOTION: CARRIED.

Public Comment: None

10. Update, Review, Discussion and Possible Action on Licensing & Continuing Education Committee Meeting Agenda

Dr. McClain presented the results of the Committee meeting to the Board and stated that the Licensing & CE Committee discussed changes to the mandatory CE hours and competency areas. The Committee held a discussion regarding reducing the number of hours required under Competency 7 – Chiropractic Adjustment/Manipulation. Ultimately the Committee decided to maintain the four required hours, unless further supporting material was presented to the Committee to substantiate the reduction in hours. The Committee also discussed content changes in Competency 5 – Professional Ethics and Jurisprudence. Dr. McClain told the Board that the Committee is striving to reduce disciplinary actions by utilizing CE courses to educate licensees about the top enforcement violations seen by the Board.

Dr. McClain added that the Committee began the discussions surrounding defining classroom courses versus distance learning courses, but noted that while the Committee made progress in this area, there are still in-depth discussions that need to occur to properly define these distance learning modalities for the CE regulations. Finally, the Committee reviewed and discussed the proposed language and policy changes to California Code of Regulations (CCR) Sections 364-366. The Committee Members agreed that adding a stipulation authorizing the Board to make necessary changes to CE requirements during national and local states of emergencies was prudent, considering the present challenges created by the COVID-19 outbreak.

Dr. McClain commended the amount of participation and engagement this meeting had from the stakeholders and urged stakeholders to continue participating in future meetings.

Ms. Boyer noted that the next Committee meeting will be held on November 6, 2020 and urged robust participation at this meeting as well.

Public Comment: None.

12. Update, Review, and Possible Action on Revisions to AB 2138 Regulatory Language

Mr. Jackson presented a brief overview of the history of AB 2138 regulations to the Board and explained why further revisions would be necessary. In January 2019, DCA Legal prepared a basic template of the required amendments for all boards and bureaus to use. Board staff made modifications to this template to meet the unique needs of the Board. After submitting the first of the regulation packages for the Veterinary Medical Board (VMB) in November 2019, the Office of Administrative Law (OAL) advised that several textual changes would need to occur.

Mr. Jackson stated that the Board's rulemaking package would also need to be amended to avoid the numerous resubmissions and revisions the other boards have undertaken and has provided a draft of the regulatory language for the Board to review with the changes highlighted. Mr. Jackson added that the new language largely provides additional clarity over the previous iterations.

MOTION: DR. MCCLAIN MOVED TO APPROVE THE PROPOSED REGULATORY TEXT FOR TITLE 16, CCR SECTIONS 316.5, 326, AND 327, AND DIRECT STAFF TO SUBMIT THE TEXT TO THE DIRECTOR OF CONSUMER AFFAIRS AND THE BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY FOR REVIEW, AND, IF NO ADVERSE COMMENTS ARE RECEIVED, AUTHORIZE THE EXECUTIVE OFFICER TO TAKE ALL STEPS NECESSARY TO AMEND THE PRECEDING RULEMAKING PACKAGE, INITIATE A RULEMAKING PROCESS, MAKE ANY NON-SUBSTANTIVE TECHNICAL OR GRAMMATICAL CHANGES TO THE PACKAGE, AND SET THE MATTER FOR HEARING IF NECESSARY. SECOND: DR. DEHN SECONDED THE MOTION.

Discussion: None.

***VOTE: 6-0, (DR. PARIS-AYE, DR. MCCLAIN-AYE, MR. RUFFINO-AYE, DR. DEHN-AYE, DR. AZZOLINO-AYE, DR. ADAMS-AYE).
MOTION: CARRIED.***

Public Comment: Brian Ota, a chiropractic licensee and a physical medicine program director for a company that employs physical therapists and chiropractors in various locations throughout the San Francisco Bay Area, suggested an amendment to CCR Section 308 regarding satellite licensing. He stated that in recent months due to the COVID-19 pandemic, it became necessary to have their chiropractors practice in multiple locations within a short amount of time. He cited the processing time for satellite applications for the Board is three to four weeks while they only had one week to accomplish their goal.

Dr. Ota thanked Mr. Puleo and the Board staff for their assistance and guidance in accomplishing this task, however noted that projects could be delayed and patients affected if the processing time is not shortened. He urged the Board to consider

amendments that would quicken this process in order to assist chiropractors in growing their practices and collaborating in multidisciplinary practices. He suggested an umbrella satellite license for the main employer which would allow employees to work at any of the sites listed on this license for the length of the satellite license.

Dr. McClain attended a Federation of Chiropractic Licensing Board (FCLB) meeting on behalf of the Board on October 7-8, 2020. Dr. McClain provided an update to the Board on the reports given by the National Board of Chiropractic Examiners (NBCE). The NBCE reported that as of August, they were caught up with those needing to take the NBCE Part IV examinations which had been delayed due to the COVID-19 pandemic.

Dr. McClain expressed NBCE's desire to have state board members administrating their tests at various locations and added that she, Dr. Paris, and Dr. Dehn would be participating in the next round of examinations. Dr. McClain stated the NBCE spoke at length about management excellence and suggested boards do a regulatory assessment but reported that it is necessary to have ongoing metrics regarding analyzing complaints and processing time. NBCE also suggested the boards work on telehealth and the expansion of medical services as related to the healthcare model to provide flexibility due to the everchanging nature from the COVID-19 pandemic. Dr. McClain stated the next NBCE meeting would take place in April 2021.

13. Update, Discussion and Possible Action on Pending Rulemaking

Ms. McMillen reported that the following rulemaking files have been reviewed by the Business, Consumer Services & Housing Agency and the rulemaking file has been returned to the Board for further revisions:

- Denial of Application, Revocation or Suspension of Licensure

Ms. McMillen stated staff have been working on the following draft rulemaking files:

- Disciplinary Guidelines & Uniform Standards for Substance Abusing Licensees
- Continuing Education Requirements

Ms. McMillen reported that Board staff have been advised by legal counsel that the Board is not required to move forward with the following rulemaking file because statutory language for this regulation is self-executing:

- Probation Status Disclosure

Ms. McMillen reported that the following rulemaking files have been submitted to DCA to commence the Initial Phase of DCA's Regulatory Review Process:

- Consumer Protection Enforcement Initiative

Ms. McMillen stated that legal review has been completed and revisions to language have been suggested so the Board will need to review and approve language at a future Board meeting. Upon approval, the package will be submitted to DCA's Executive Office.

- Delegation of Authority to the Assistant Executive Officer

Mr. Jackson reported that there is no longer authority for the Board to allow out-of-state licensees to hold Sponsored Free Health Care Events in California. Mr. Jackson advised the Board that staff could file a Section 100 to have this section repealed but recommended the Board leave it in the regulations in case it is reauthorized by legislation and the Governor.

Public Comment: None

14. Review, Discussion and Possible Action to Schedule End-of-Year Board Meeting

Mr. Puleo advised the Board that due to the pandemic the Board has been unable to hold petition hearings at prior Board meetings. He added that Board staff have begun to review petitions and will notify those eligible for a hearing and noted that a CE provider requested a formal hearing before the Board which must be overseen by an Administrative Law Judge.

The Board discussed their calendars for the month of December 2020 and decided to hold a Board Meeting on December 11, 2020.

Public Comment: None.

15. Review, Discussion and Possible Action Regarding the Proposed 2021 Board Meeting Schedule

The Board directed staff to schedule the 2021 Board Meetings via email or Doodle Poll.

Public Comment: None.

16. Public Comment for Items Not on the Agenda

There were none.

17. Future Agenda Items

There were none.

18. Closed Session

The Board went into Closed Session for deliberation and determinations regarding:

- A. Receive Advice from Legal Counsel Pursuant to California Government Code Sections 11126(e) and 139361.1 Regarding Hugh Lubkin, D.C. v. Board of Chiropractic Examiners Workers' Compensation Case No. ADJ7361379

19. Open Session

The Board returned to Open Session.

20. Adjournment

Dr. Paris adjourned the meeting at 3:40 p.m.

(ATTACHMENT A)

Approval by Ratification of Formerly Approved License Applications
 between July 1, 2020 and September 30, 2020.

Name (First, Middle, Last)		Date Issued	DC#
Lisa		Ly	7/2/2020 34861
Stephanie	Ann	Morales	7/2/2020 34862
Benji	Preciado	Rocha	7/2/2020 34863
William	Eric	De Board	7/2/2020 34864
Kelly	John	Chapman	7/3/2020 34865
Manuel	Alejandro	Soto-Garcia	7/3/2020 34866
Sarah	Luisa	Schweter	7/3/2020 34867
Alexa	Taylor	Milus	7/3/2020 34868
Ace		Fletcher	7/3/2020 34869
Brook	Marylea	Foster	7/3/2020 34870
Samantha	Ellen	Morones	7/3/2020 34871
Alexander	Robert	Morrow	7/3/2020 34872
Erica	Michelle	Bass	7/8/2020 34873
Joel	Adams	Stryker	7/8/2020 34874
Jessica	Ingram	Stief	7/8/2020 34875
Ian	Thomas	Barwick	7/8/2020 34876
Wincelas	Scott	Weems	7/8/2020 34877
McKay		Holland	7/15/2020 34878
Jack	Paul	Mitchell	7/15/2020 34879
Abigail	Estrin	Petkov	7/15/2020 34880
Thomas	Zachary	Thomas	7/15/2020 34881
Kyle	Robert	Young	7/15/2020 34882
Fleming	Lee	Saballa	7/16/2020 34883
Richard	Ledosquet	Ford	7/16/2020 34884
Matthew	Anthony	O'Brien	7/16/2020 34885
Evan	Allender	Peake	7/16/2020 34886
Michael		To	7/16/2020 34887
Diego	Andres	Bignone	7/16/2020 34888
Dahren	Aman	Doss	7/16/2020 34889
Jamor		Townsend	7/22/2020 34890
Alexa	Rae	Garcia	7/22/2020 34891
Jennifer		Habchi	7/22/2020 34892
Travis	Scott	Rodman	7/30/2020 34893
Kamelia	Irena	Habina	7/30/2020 34894
Eddy	Bounpon	Mydouangchanh	7/30/2020 34895
Paris	Marie	De Grasse	8/5/2020 34896

Daniel	Webster	Veiga	8/5/2020	34897
Katarina	Skier	Payne	8/5/2020	34898
Toshina	Christine	Crockett-Espinoza	8/5/2020	34899
Camille	Brianne	Masica	8/6/2020	34900
Henry	Antonio	Rivera Olivas	8/6/2020	34901
Andrew	Jonathan	Adam	8/6/2020	34902
Tsu	Yao	Lam	8/6/2020	34903
George		Janji	8/11/2020	34904
Alex	Michael	Dumas	8/11/2020	34905
Nathan	Daniel	Clark	8/11/2020	34906
Vennes	Gem	Su	8/11/2020	34907
Abbie	Janet	Spencer	8/12/2020	34908
Keith	Eugene	Pyne	8/12/2020	34909
Matthew	Emmanuel	Viramontes	8/12/2020	34910
Matthew	E	Kelly	8/26/2020	34911
Mary	Jeanette	Ames Brown	8/26/2020	34912
Nicholas	Ryan	Randolph	8/26/2020	34913
Allen	Frank Sonier	Stevens	8/26/2020	34914
Brittany	Reann	Rojo	9/3/2020	34915
William	Joseph	Seidl	9/3/2020	34916
Monique	Marie	Pangilinan	9/3/2020	34917
Vivian	Zhiwin	Kan	9/3/2020	34918
Erin	Rebecca	McClive	9/3/2020	34919
Taylor	Jerae	Garcia	9/3/2020	34920
Linnet		Sarkisyan	9/17/2020	34921
Brian		Lee	9/17/2020	34922
Dean	Holden	Rushing	9/17/2020	34923
Raymond	J	Martinez	9/17/2020	34924
Caitlin	Susana	Montcrieffe	9/17/2020	34925
Antonia	Juliette	Forsyth	9/23/2020	34926
Natalie	Alexandra	Noack	9/23/2020	34927
Andre	Nicoles Salcedo	Bugawan	9/23/2020	34928
Marco Antonio	G	Gudino	9/23/2020	34929
Niccolo		Caspani	9/23/2020	34930
Anthony Gil	Lawrence	Galapon-Olivas	9/23/2020	34931
Jordan	Clifton	Hines	9/23/2020	34932
Alexander	S	Choi	9/23/2020	34933

(ATTACHMENT B)

Pending Ratification to Approve New Continuing Education Providers

<p>Provider Name: Jonathan David Diaz, DC</p> <p>CE Oversight Contact Person: Jonathan David Diaz, DC</p> <p>Provider Status: Individual</p>	<p>Provider Name: Lewis N. Meltz, DC, DABCO</p> <p>CE Oversight Contact Person: Lewis N. Meltz, DC, DABCO</p> <p>Provider Status: Individual</p>
<p>Provider Name: Nicholas Loloee, DC</p> <p>CE Oversight Contact Person: Nicholas Loloee, DC</p> <p>Provider Status: Corporation</p>	<p>Provider Name: WebExercises</p> <p>CE Oversight Contact Person: Anja Dean</p> <p>Provider Status: Corporation</p>