



**BOARD OF CHIROPRACTIC EXAMINERS
LICENSING COMMITTEE
MEETING MINUTES
August 25, 2023**

The Licensing Committee (Committee) of the Board of Chiropractic Examiners (Board) met via teleconference/Webex Events on August 25, 2023, from the following locations:

Department of Consumer Affairs
Stanislaus Room
1625 N. Market Blvd., Suite S-203
Sacramento, CA 95834

1165 Park Avenue
San Jose, CA 95126

Committee Members Present

Pamela Daniels, D.C., Chair
Janette N.V. Cruz

Staff Present

Kristin Walker, Executive Officer
Tammi Pitto, Assistant Executive Officer
William Walker III, Enforcement Manager
Amanda Ah Po, Enforcement Analyst
Brianna Lauziere, Licensing Analyst
Sabina Knight, Board Counsel, Attorney III, Department of Consumer Affairs (DCA)
Steven Vong, Regulatory Counsel, Attorney III, DCA

1. Call to Order / Roll Call / Establishment of a Quorum

Dr. Daniels called the meeting to order at 11:01 a.m. Ms. Cruz called the roll.
Dr. Daniels was present at the San Jose meeting location and Ms. Cruz was present at the Sacramento meeting location. A quorum was established.

2. Review and Possible Approval of May 12, 2023 Committee Meeting Minutes

Motion: Dr. Daniels moved to approve the minutes of the May 12, 2023 Licensing Committee meeting.

Second: Ms. Cruz seconded the motion.

Public Comment: Falkyn Luouxmont commented that he disagrees with the approval of the May 12, 2023 meeting minutes because the chiropractic college curriculum regulatory proposal was not included on the August 25, 2023 meeting agenda.

In response to the public comment, Dr. Daniels clarified that the draft minutes contain an accurate summary of the items that were discussed during the May 12, 2023 meeting.

Vote: 2-0 (Dr. Daniels-AYE and Ms. Cruz-AYE).

Motion: Carried.

Ms. Walker added that Committee meeting agendas are determined by the Committee Chair in collaboration with staff.

3. Update on Board's Licensing Program

Ms. Walker highlighted the legislative bills that affect the Board's Licensing Program, including Assembly Bill (AB) 883 (Mathis), which would require DCA boards and bureaus to expedite the initial licensure process for an applicant who is enrolled in the United States Department of Defense SkillBridge program, and Senate Bill (SB) 372 (Menjivar), which would establish a process for DCA boards and bureaus to handle requests for confidential name and gender changes and remove prior name and gender information from the public license information system. She noted DCA collaborated with Senator Menjivar's office on amendments to SB 372.

She updated the Committee on the pending regulatory proposals in the concept development phase, including the implementation of temporary licensure for military spouses and partners and updates to the chiropractic program regulations and curriculum requirements. Ms. Walker indicated staff is developing regulatory language for the chiropractic program regulations, and Dr. Daniels engaged in numerous discussions with stakeholders to gain their insights and input on the proposed changes. She also noted that this regulatory proposal is dependent upon two reports that will be released in 2024—the Council on Chiropractic Education's (CCE) updated accreditation standards for doctor of chiropractic (DC) degree programs and the Board's occupational analysis (OA) of the chiropractic profession that is being conducted by DCA's Office of Professional Examination Services (OPES).

Ms. Walker explained there is also a pending Consumer Protection Enforcement Initiative (CPEI) proposal to potentially allow the Board to order a physical or mental examination of applicants. She stated the Board already can order these examinations of licensees, and staff is exploring the feasibility of the proposal before bringing it to the Committee for discussion in 2024. She added staff is also working on proposed updates to the process for licensure through reciprocity.

Ms. Cruz asked if the CCE and OPES reports have any impact on the Board's strategic plan objectives. Ms. Walker explained those reports have a direct effect on the chiropractic program regulations, but also will help broadly inform the Board on other policy areas with an updated description of the practice and through identification of the most important knowledge and skills for contemporary practice.

Dr. Daniels asked if AB 883 (Mathis) affects any of the Board's CPEI or reciprocity proposals. Ms. Walker replied that she does not anticipate an impact because the Board already has a process for expediting licensure for military members and spouses and would just need to update the application form to inquire if applicants are enrolled in the SkillBridge program and expedite their applications under the existing process.

Dr. Daniels also asked if SB 372 (Menjivar) poses potential legal ramifications for the Board if an error results in the release or posting of private information. Ms. Knight indicated that she would need to look into that question further, but the bill was improved to narrow the circumstances that would qualify for the confidential handling of name and gender change requests. Dr. Daniels asked about the information that would be provided to the public on the license search system. Ms. Knight replied that DCA would provide guidance to the boards and bureaus on implementation if the bill passes.

Ms. Walker highlighted the Licensing Program statistics for fiscal year 2022–23 and noted a slight increase in the volume of initial DC licenses, a significant increase in the volume of new satellite location applications, and a steady decline in the volume of DC license renewals.

She also explained there has been a high adoption rate of the Connect system for initial license applications and there is a need to focus on increasing licensee adoption of the system from its current rate of about 30 percent to a goal of 80 percent. She noted one challenge is the need for support of the Connect system on mobile devices and tablets. She added that staff is working with the vendor to enhance the PDF application submission process and workflow for low volume, miscellaneous application types and DCA staff is testing the implementation of full cashiering functionality in the Connect system.

Dr. Daniels suggested sending an email notification to licensees and working with the associations to make licensees aware of the Connect system and online renewal process. She also asked if the number of DC licenses issued increased from 332 to 370 from fiscal year 2021–22 to 2022–23 due to the timing of graduations from chiropractic programs. Ms. Walker responded affirmatively. Ms. Cruz noted the number of new satellite certificates increased significantly after initially contracting during the pandemic.

Public Comment: Mr. Luouxmout asked when the next significant update will occur for the chiropractic curriculum regulations.

Ms. Walker reiterated that the updated chiropractic program and curriculum regulations are pending the release of CCE's updated accreditation standards and the Board's OA in 2024.

4. Review, Discussion, and Possible Recommendation Regarding Requirements for Filing Places of Practice with the Board and Notifying the Public of Licensure at Practice Locations and in Mobile Settings (amend California Code of Regulations [CCR], Title 16, section 308 and add CCR, Title 16, section 308.1)

Ms. Lauziere introduced this agenda item and explained in May 2016, the Board approved regulatory text that would have required each licensee to display their license or satellite certificate in the entry or waiting area of their practice at all times while treating, examining, or evaluating patients at that location. She added licensees practicing in a mobile setting would have been required to carry a pocket license and make it available for verification. She also stated licensees would have been required to provide notice to patients that they are licensed and regulated by the Board by posting a visible notice, obtaining the patient's signature on a written statement, or including the notice on letterhead, discharge instructions, or other documents given to a patient.

She further explained the Committee has been discussing how a place of practice is not currently defined in the Board's regulations, the filing requirements do not address temporary practice settings, and licensees are only required to file an address with the Board, not the name of their practice, which makes it difficult for the Board and the public to access information regarding chiropractic practices. She presented the following proposed definition of a "place of practice":

"A 'place of practice' means any location where a licensee practices chiropractic or holds a proprietary interest related to the practice of chiropractic or any right to participate in the management, supervision, or control thereof."

Ms. Lauziere asked the Committee to discuss the implementation of a facility permit for fixed places of practice and modern methods to notify the public of licensure at all practice settings, such as through the use of a QR code that links to the licensee or facility profile on the DCA Search license information system.

Dr. Daniels and Ms. Cruz suggested revising the proposed definition of a place of practice to incorporate and emphasize the act of performing chiropractic in any setting rather than focusing on the location.

Dr. Daniels expressed her support for making it easier for corporations and practices to file their license information with the Board and asked how the proposed facility permit would work. Ms. Walker explained the intent of the proposal would be for each practice to identify a licensee who is in charge of the facility and will maintain the permit registration and notify the Board of any changes in licensees at the facility. She added the Board would need to establish a reasonable deadline for notifying the Board of any changes to the permit, such as 10 or 30 days, and staff would enter the changes in the Board's database. She noted the DCA Search license information system automatically updates in real time, so if a notice with a QR code was posted at the facility, the permit information would always be up to date.

Dr. Daniels asked about the feasibility of adding a QR code to the Board's licenses and permits. Ms. Walker stated staff is exploring the idea of QR codes and paperless licenses with DCA's Office of Information Services.

Dr. Daniels referenced the 2016 text and shared her concern with the proposed requirement to make the pocket license available for inspection upon request in mobile settings. She stated the public may not know about a pocket license or may be too uncomfortable or embarrassed to ask to inspect it. She commented that the QR code should be prominently displayed so the public can easily access the information without asking. Ms. Cruz agreed.

Dr. Daniels added that the proposed notice to consumers in the 2016 text seems redundant to the license posting requirement and asked Ms. Walker for the history of that proposal. Ms. Walker explained the CPEI originally started as legislation in 2010 to enhance DCA enforcement programs, and one of the CPEI proposals was to provide notice to consumers that licensees are regulated by various DCA boards. She stated the Board could combine the posting and notice requirements by simply adding a notice to consumers to the license along with a QR code. Dr. Daniels and Ms. Cruz agreed.

Dr. Daniels stated there is no need for a mobile permit because the licensee is still practicing under their DC license, but suggested the Board gather their types of practice settings and connect them to their address of record.

Public Comment: Marissa Palmer, D.C. requested a category separating a licensee's mailing address from the practice address because that change would be very helpful.

5. Review, Discussion, and Possible Recommendation Regarding Requirements and Limitations for Inactive Licenses (Business and Professions Code sections 700–704 and CCR, Title 16, sections 370 and 371)

Ms. Pitto presented this agenda item and explained at the February 24, 2023 meeting, the Committee discussed how the phrase “not actively engaged in the practice” within Business and Professions Code (BPC) section 700 is vague and the potential need to establish regulations to clarify the prohibition against engaging in “any activity for which an active license is required” as used in BPC section 702.

Dr. Daniels shared that the Board does not have a clear definition of “inactive” so some inactive licensees may be performing activities that actually require an active license. She noted performing an examination with a diagnostic interpretation, making recommendations for imaging, monitoring a patient's progress, and manipulation of soft tissue are examples of activities that require an active license. She also expressed her concerns with allowing an inactive licensee to reactivate their license after completing just one year of CE.

Ms. Walker explained BPC section 704, subdivision (b) specifies that inactive licensees may return to active status after completing one year of CE, but the Board could present those concerns to the Legislature as part of the next sunset review.

Dr. Daniels suggested developing a regulation that clearly defines what an inactive licensee can and cannot do, and also updating the DCA Search license profile to make it clear to the public that an inactive licensee cannot engage in the practice of chiropractic.

Public Comment: None.

6. Review, Discussion, and Possible Recommendation Regarding the Practice of Chiropractic via Telehealth

Ms. Lauziere introduced this agenda item and shared that during the last meeting on May 12, 2023, the Committee expressed interest in discussing the practice of chiropractic via telehealth. She explained telehealth was last considered by the Board in 2021 when developing the previous sunset review report, and at that time, the Board noted telehealth was expanding in health professions, including chiropractic, and its use was accelerated by the pandemic. She noted that while the hands-on aspects of chiropractic care cannot be provided via telehealth, it can be used for consultations, follow-up visits, patient education, and health and wellness coaching. She added the Board has not adopted any regulations specifically related to telehealth, but licensees must comply with the provisions of BPC section 2290.5 when providing telehealth services and they are subject to the same standards of practice as when they provide in-person care.

Ms. Lauziere explained the Acupuncture Board is currently developing a regulation to establish standards for practicing acupuncture via telehealth, including a requirement to consider whether the delivery of acupuncture services via telehealth is appropriate based on the patient's diagnosis, symptoms, and medical history and the nature of the services to be provided. She added the Board of Occupational Therapy and the Board of Behavioral Sciences also adopted standards of practice for telehealth, the Texas Board of Chiropractic Examiners established requirements similar to the provisions of BPC section 2290.5, and the Florida Legislature enacted a registration requirement for out-of-state practitioners to perform telehealth services for patients in Florida.

Dr. Daniels shared that she gathered information on telehealth documentation requirements and, in addition to informed consent, providers should document the location of all parties, the start and end time of the visit, chief complaint, consent, visual observations (skin tone, color, breathing, etc.), height, and weight. She explained the Board's regulation should not be overly prescriptive, but should consider concerns for public health and safety. Ms. Cruz added concerns of privacy and information security should also be addressed.

Ms. Cruz and Dr. Daniels commented that the Acupuncture Board's proposed regulation is thorough and similar to the requirements for practicing chiropractic via telehealth. Ms. Walker added the language also specifies that licensees must consider whether telehealth is appropriate for the visit and ensure that they are competent to deliver their services via telehealth, which establishes a standard of care for telehealth.

Dr. Daniels referenced the standards of practice for telehealth in the Florida law and suggested incorporating the phrase "lawfully provide services in that jurisdiction" in the Board's proposal. Ms. Cruz asked if there are billing codes in place for telehealth. Dr. Daniels responded affirmatively.

Public Comment: None.

7. Public Comment for Items Not on the Agenda

Public Comment: Dr. Palmer asked the Committee to consider discussing adding regulations for the Board to regulate certified and trained animal chiropractors in the state. Mr. Luouxmont requested an edit to CCR, title 16, section 331.12.2 to allow for a partial point toward clinic requirements when a student intern performs an evaluation with measurements and data but finds no presence of subluxation and no need for a chiropractic adjustment.

8. Future Agenda Items

Ms. Cruz requested a discussion regarding stakeholder communications and updates for the Government and Public Affairs Committee. Dr. Daniels requested a future discussion on the scope of practice and animal chiropractic.

Public Comment: None.

9. Adjournment

Dr. Daniels adjourned the meeting at 1:06 p.m.