



OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA TELECONFERENCE MINUTES

Monday, June 17, 2019

BOARD MEMBERS PRESENT:

Joseph Zammuto, D.O., President
Cheryl Williams, Vice President
Cyrus Buhari, D.O., Secretary Treasurer
Elizabeth Jensen, D.O., Board Member
Claudia Mercado, Board Member
Andrew Moreno, Board Member
Gor Adamyan, Board Member

STAFF PRESENT:

Mark Ito, Executive Director
Terri Thorfinnson, Assistant Executive Director
Machiko Chong, Executive Analyst
Salwa Bojack, Esq., Legal Counsel, DCA
Sabina Knight, Esq., Legal Counsel, DCA

BOARD MEMBERS ABSENT:

The meeting of the Osteopathic Medical Board of California was called to order by President Joseph Zammuto, D.O., at 1:17 PM via teleconference at the noticed site of Interstate Grading & Paving 128 South Maple Avenue, South San Francisco, CA 94080. This teleconference site was open and accessible to the public. No public was present at this location. Board staff was in the Board's conference room at 1300 National Drive, Suite 150, Sacramento, CA 95834. The meeting site was open and accessible to the public.

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

Dr. Zammuto asked Machiko Chong to call the roll. Each of the Board Members in attendance gave their name, teleconference address, and telephone number:

- **Gor Adamyan**, Avia Billing & Consulting, 4640 Lankershim Blvd., Ste. 105, Toluca Lake CA 91602, (650) 992-4000; No member of the public was present at this location
- **Cyrus Buhari, D.O.**, Cesar Chavez Central Library, 605 N El Dorado Street, Stockton, CA 95202, (209) 937-8221; No member of the public was present at this location

- **Elizabeth Jensen, D.O.**, Seton Medical Center, 1900 Sullivan Avenue, Lower Level, Room 500, Daly City, CA 94015, (415) 750-5909; No member of the public was present at this location
- **Andrew Moreno**, The Moreno Law Group, 1505 North Wishon Ave., Fresno CA 93728, (559) 449-0400; No member of the public was present at this location
- **Claudia Mercado**, 501 23rd Avenue, Conference Room, Oakland CA 94606, (510) 735-5999; No member of the public was present at this location
- **Cheryl Williams**, 1636 50th Street, San Diego CA 92102, (619) 254-5064; No member of the public was present at this location

2. Public Comment for Items Not on the Agenda:

Note: The Board may not discuss or take action on any matter raised during this public comment section except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections 11125, 11125.7(a)]

There were no public comments as upon inquiry, there were no members of the public present at any of the locations listed above.

3. Discussion and Possible Action to Adopt a New OMBC Board Logo:

Mr. Ito informed the Board that he reached out to the DCA Publications, Design and Editing Unit after the May meeting to request that color variations be provided, so that the Board could compare the two logo templates for selection and future use. Both logo templates provided were also accompanied by example letter heads.

Dr. Zammuto moved to vote on Option 2 logo. Motion – Dr. Zammuto,
Second – C. Buhari

- Roll Call Vote was taken
 - **Aye** – Mr. Adamyan, Dr. Buhari, Dr. Jensen, Ms. Mercado, Mr. Moreno, Mrs. Williams, Dr. Zammuto
 - **Nay** – None
 - **Abstention** – None
 - **Absent** – None
- Motion carried to select Option 2 logo.

Dr. Zammuto inquired whether the Board was required to use the DCA color scheme of green and blue. He was advised by Mr. Ito that it was only provided as an option, however he informed the Board that the color palate selected was the Board's discretion. Ms. Mercado recommended that the Board keep the coloring of the Asclepius on Option 2 (j), but she suggested that the letter coloring be revised to reflect a lighter blue similar to Option 2 (a).

Dr. Zammuto moved to select Option 2 (j) substituting the letter coloring with the colors in Option 2 (a). Motion – Dr. Zammuto, Second – E. Jensen

- Roll Call Vote was taken
 - **Aye** – Mr. Adamyan, Dr. Buhari, Dr. Jensen, Ms. Mercado, Mr. Moreno, Mrs. Williams, Dr. Zammuto
 - **Nay** – None
 - **Abstention** – None
 - **Absent** – None
- Motion carried to select Option 2 (j) substituting the letter coloring with the colors in Option 2 (a).

4. Discussion and Possible Action to Initiate the following Rulemaking Packages:

- a) Amend Title 16, California Code of Regulations (CCR) section 1635 (Required Continuing Medical Education (CME))
- b) Amend Title 16, CCR section 1636 (Continuing Medical Education Progress Report)
- c) Amend Title 16, CCR section 1641 (Sanctions for Noncompliance)

Mr. Ito informed the Board that during review of the rulemaking package it was discovered that CCR 1635 (e) was duplicative of the current law listed within Business and Professions Code (B&P) 2454.5. The dilemma is that the regulations for the American Osteopathic Association (AOA) and American Medical Association (AMA) CME guidelines would require that the Board's CME guidelines would need to be amended every 2-3 years to ensure that the Board remain compliant with its CME guidelines. Recommendation is being made to remove CCR 1635 (e) to ensure that the board would not need to reconvene every 3 years to discuss CME Regulatory changes.

Dr. Zammuto called for a motion to remove subsection (e) from CCR Section 1635.

Motion to approve the proposed text for a 45 day public comment period and delegate to the ED the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, to follow established procedures and processes in doing so, and also delegate to the ED the authority to make any technical and non-substantive changes that may be required in completing the rulemaking file. Motion – Dr. Zammuto, Second – C. Buhari

- Roll Call Vote was taken
 - **Aye** – Mr. Adamyan, Dr. Buhari, Dr. Jensen, Ms. Mercado, Mr. Moreno, Mrs. Williams, Dr. Zammuto
 - **Nay** – None
 - **Abstention** – None
 - **Absent** – None
- Motion carried to remove subsection (e) from CCR Section 1635.

5. Legislation Report on Items introduced during the 2019 Legislative Session:

Mrs. Thorfinnson stated that she would be addressing bills that she felt the Board may potentially want to take a position on, address those that would potentially affect the scope of practice of other profession, and bills that could potentially be passed into law that would the Board and profession.

Dr. Zammuto inquired what options were available if there was a bill which raised concerns with the Board. Mrs. Thorfinnson advised that it was the Board's discretion whether they wanted to take a position on a bill that was not addressed by the board.

SB 425 (Hill) Health care practitioners: licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct.

Mrs. Thorfinnson noted that this bill would add health facilities to the list of entities that would need to reporter any sexual misconduct that occurs from one of their staff. Currently, there is no reporting requirement for sexual misconduct that occurs within health care facilities or the cause of action that occurs from it.

Dr. Zammuto inquired whether an 805 would need to be filed against a physician if the offense occurred at a hospital or a surgical center. He was advised by Mrs. Thorfinnson that hospitals and surgical centers do have a requirement to report any physician misconduct. She noted that from an enforcement perspective the Board would only have knowledge of 805s once they were reported by the hospital or surgical centers. However, if these facilities don't file an 805 not only would the facility be in violation of the reporting requirements, but the Board would have no knowledge of the violations until a complaint is received which would eventually lead the Board back to the facility.

Mrs. Thorfinnson state that the Medical Board of California has taken a stance on the bill and that from a regulatory perspective it is a good safety bill and would be an added enhancer to safety requirements.

Dr. Buhari inquired on the repercussions of an individual's actions who does not fall under the reporting requirements (*i.e.* none licensed individual of the state) or may not be a member of any of the health professions, and what a facility is to do when a patient complains about the way they felt around the individual and/or allegations of sexual misconduct. Mrs. Thorfinnson advised that under subsection (c) the reporting requirements include an employee or healing arts licensee therefore the facility may report them.

After secondary review of the language by legal counsel and Mrs. Thorfinnson it was found that subsection (c) was struck from the proposed legislative language, however that does not mean that the facility has no other disciplinary options in place to report the misconduct of those non-healing arts employees.

Dr. Zammuto called for a motion to support SB 425 (*Hill*) *Health care practitioners: licensee’s file: probationary physician’s and surgeon’s certificate: unprofessional conduct.*

Motion to take a support position on SB 425 as amended on May 21, 2019 for the reasons discussed by members and staff and as reflected in the staff memo and direct the Executive Director to inform the legislature and the authors office of its position. Motion – Dr. Zammuto, Second – E. Jensen

- Roll Call Vote was taken
 - **Aye** – Mr. Adamyan, Dr. Buhari, Dr. Jensen, Ms. Mercado, Mr. Moreno, Mrs. Williams, Dr. Zammuto
 - **Nay** – None
 - **Abstention** – None
 - **Absent** – None
- Motion carried to support SB 425 (*Hill*) *Health care practitioners: licensee’s file: probationary physician’s and surgeon’s certificate: unprofessional conduct.*

SB 53 (Wilk) Open Meetings

Mrs. Thorfinnson noted that the intent of the bill although was to ensure that there were no meetings being had with multiple individuals on the committee for the high-speed railway, however it did not exclude other boards from the bill. Currently, the open meeting standard considers a public meeting to be one which includes 3 or more members of a committee, however the new recommendation would consider a public meeting to be one that is attended by 2 or more members.

Ms. Knight noted that the bill was initially introduced in both 2014 and again in 2015 by the same author but was vetoed by Governor Brown both times. However, this is the first time that Governor Newsom will have seen the bill, which may result in a high probability that the bill is approved. Thus far the Board of Accountancy and the Structural Pest Control Board have taken an opposed position to the bill.

Dr. Zammuto strongly recommended that the Board take an opposition stance with regards to and inquired if a coalition has been created in opposition to the board, however both Mrs. Thorfinnson and Ms. Knight were unaware if a coalition was in existence.

Mrs. Thorfinnson added that those in support of the bill are Cal Aware, California Association of Licensed Investigators, California Newspaper Publishers Association, and the League of Women Voters.

Dr. Zammuto called for a motion to oppose SB 53 (*Hill*) *Open Meetings.*

Motion to take an opposed position on SB 53 as amended on March 5, 2019 for the reasons discussed by members and staff and as reflected in the staff

memo and direct the Executive Director to inform the legislature and the authors office of its position. Motion – Dr. Zammuto, **Second** – C. Buhari

- Roll Call Vote was taken
 - **Aye** – Mr. Adamyan, Dr. Buhari, Dr. Jensen, Ms. Mercado, Mr. Moreno, Mrs. Williams, Dr. Zammuto
 - **Nay** – None
 - **Abstention** – None
 - **Absent** – None
- Motion carried to support oppose SB 53 (*Hill*) *Open Meetings*.

AB 407 (Santiago) Fluoroscopy permit or certification and continuing education: exceptions

Mrs. Thorfinnson informed the board of the public safety risk that would be caused by implementation of this bill should it pass, as it is requesting removal of the current mandated certification for fluoroscopic use.

Those in support of the bill are the California Orthopedic Association and the California Pediatric Medical Association who have both sponsored the bill. Those in opposition of the bill are the California Radiologic Society and the California Society of Radiologic Technologists.

Dr. Zammuto expressed concern with the bill because of the public and office safety it poses when utilizing ionized radiation if there is no standard and knowledge of the proper way in which it should be used.

Dr. Buhari added that he agreed with Dr. Zammuto in opposing the bill because there are certain frames of course work that must be completed when properly utilizing fluoroscopic devices. The proper radiation levels, physics, in addition to how these radiation levels will affect your patient are all things that should continue to be studied by those who are wishing to provide fluoroscopic services.

Dr. Zammuto called for a motion to oppose *AB 407 (Santiago) Fluoroscopy permit or certification and continuing education: exceptions*.

Motion to take an opposed position on AB 407 as amended on April 11, 2019 for the reasons discussed by members and staff and as reflected in the staff memo and direct the Executive Director to inform the legislature and the authors office of its position. Motion – Dr. Zammuto, **Second** – C. Buhari

- Roll Call Vote was taken
 - **Aye** – Mr. Adamyan, Dr. Buhari, Dr. Jensen, Ms. Mercado, Mr. Moreno, Mrs. Williams, Dr. Zammuto
 - **Nay** – None
 - **Abstention** – None

- **Absent** – None
- Motion carried to support oppose *AB 407 (Santiago) Fluoroscopy permit or certification and continuing education: exceptions.*

Mr. Ito and Mrs. Thorfinnson provided the Board with background information regarding the following bills for which no stance was taken. It was decided that they would be monitored should any changes be made that will subsequently affect the Board.

- *AB 149 (Cooper) Controlled substances: prescriptions*
- *AB 613 (Low) Professions and vocations: regulatory fees*
- *AB 617 (Mullin) Stem Cell and Regenerative Therapy Regulation Advisory Group*
- *AB 1038 (Muratsuchi) Health data: rates for health care services: physicians and surgeons*
- *AB 1467 (Salas & Low) Optometrists: scope of practice: delegation of services agreement*
- *SB 276 (Pan – Principle coauthor: Assembly Member Gonzalez – Coauthor: Senator Wiener – Coauthor: Assembly Member Aguiar-Curry) Immunizations: medical exemptions*
- *SB 697 (Caballero) Physician assistants: practice agreement: supervision*

6. Agenda Items for Next Meeting

- Discussion and Approval of Guidelines for the Recommendation of Cannabis for Medical Purposes

7. Future Meeting Dates

- Thursday, September 5, 2019 @ 10:00 am – Sacramento, CA
- Thursday, January 16, 2020 @ 10:00 am – Sacramento, CA

8. Adjournment

Meeting adjourned at 2:43 p.m.