



Osteopathic Medical Board of California
AMENDED Board Meeting Minutes
August 15, 2024

**MEMBERS
PRESENT:**

Denise Pines, MBA, *Board President*
Andrew Moreno, Esq., *Vice President*
Gor Adamyan, *Secretary*
Brett Lockman, D.O.
Hemesh Patel, D.O.
Matthew Swain, D.O.

**MEMBERS
ABSENT:**

John M. Cummins, J.D.

**STAFF
PRESENT:**

Erika Calderon, *Executive Director*
Yuping Lin, *Attorney I, Board Legal Counsel*
Kristy Schieldge, *Attorney IV, Regulations Legal Counsel (online)*
Machiko Chong, *SSM I, Licensing Program Unit*
Terri Thorfinnson, *SSM I, Administrative Program Unit*
Ralph Correa, *Probation Monitor*

**MEMBERS OF
THE AUDIENCE:**

Michelle Monserrat-Ramos, *Consumer Watchdog*
Maria Ibarra-Navarrette, *Consumer Watchdog*
Tracy Dominguez, *Consumer Watchdog*
Holly Macriss, *Executive Director, Osteopathic Physician and Surgeons of California (OPSC)*
Melissa Gear, *Deputy Director, Board and Bureau Relations*
Judie Bucciarelli, *SSMI, DCA Executive Office*
Harmony DeFilippo, *DCA Budgets*
Kirsten Cox, *DCA Budgets*

Agenda Item 1 Call to Order / Roll Call / Establishment of a Quorum

The Board Meeting of the Osteopathic Medical Board of California (OMBC) was called to order by Madame President, Denise Pines at 9:06 a.m. The meeting was held at California Health Sciences University, 2500 Alluvial Ave (Classroom 179) Clovis, CA 93611.

Machiko Chong, SSM I, called roll and determined a quorum was present. Due notice was provided to all interested parties.

Agenda Item 2 Reading of the Board's Mission Statement - *Erika Calderon, Executive Director*

Erika Calderon, Executive Director, read the Board's mission statement.

Agenda Item 3 Review and Possible Approval of the May 2024 Board Meeting Minutes - *Beth Dutchler, Associate Governmental Program Analyst*

Agenda Item 3 can be found [here](#). The full audio of the Agenda Item 3 can be heard [here](#).

Madame President called for a motion to adopt the minutes.

Motion – Mr. Moreno

Second – Dr. Lockman

Roll Call Vote Taken

- Lockman – Aye
- Moreno – Aye
- Pate – Abstain
- Pines – Aye
- Swain – Aye

Motion carried to adopt the May 2024 Board Meeting Minutes.

No comments from the Board Members or public in attendance.

The following comments from the public attending remotely can be heard [here](#).

Comments were made by:

Michele Monserratt-Ramos, Consumer Watchdog

Maria Ibarra-Navarrette, Consumer Watchdog

Agenda Item 4 Public Comment on Items Not on the Agenda

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).)

Madame President opened public comment for items not on the agenda and reminded the public and the Board Members that comments are welcome under the open meetings act. The Board may not take action on issues raised by public comment that are not on the agenda other than to decide if the issue will be added to a future meeting. The full audio of Agenda Item 4 can be heard [here](#).

No comments from the public in attendance.
No comments from the public online.

Agenda Item 5 President's Report - Denise Pines, MBA

Madame President Pines addressed the President's Report. The Board has worked hard in the first quarter to meet objectives for enhancing consumer protection and the Board is dedicated to advancing consumer protection goals. Director Calderon has been instrumental in shaping meeting agendas and progressing Board projects.

Madame President Pines took a moment to acknowledge two Board Members and their service. The Board would like to thank Dr. Michael Kim, D.O. and Dr Michael Luszcak, D.O. for their service to the Board and the public.

Madame President Pines introduced three new Board Members, Mr. John Cummins, Dr. Matthew Swain, and Dr. Brett Lockman. All new Board Members present were sworn in.

The full audio of Agenda Item 5 can be heard [here](#).

No comments from the public in attendance.
No comments from the public online.

Agenda Item 6 Board Member Communications with Interested Parties - Denise Pines, MBA, Board President

Madame President Pines asked the Board Members if they had any disclosures to announce.

The full audio of Agenda Item 6 can be heard [here](#).

No comments from the public in attendance.
No comments from the public online.

Agenda Item 7 Executive Director's Report - Erika Calderon Administrative services, including personnel, and technology updates

Executive Director, Erika Calderon, provided updates on the Board's personnel, administrative functions and projects. The Board Meeting materials for Agenda Item 7 can be found [here](#). The full audio of Agenda Item 7 can be found [here](#).

Madame President Pines opened comments for Agenda Item 7.

Comments from the Board Members can be heard [here](#).

Comments were made by:

Ms. Pines, Board President
Dr. Patel, Board Member
Director Calderon, Executive Director
Mr. Moreno, Board Member

Comments from the public in attendance can be heard [here](#).

Comments were made by:

Holly Macriss, Executive Director, Osteopathic Physician and Surgeons of California (OPSC)

Comments from the public attending remotely can be heard [here](#).

Comments were made by:

Michele Monserratt-Ramos, Consumer Watchdog
Kimberly Turbin, Consumer Watchdog
Tracy Dominguez, Consumer Watchdog
Maria Ibarra- Navarrette, Consumer Watchdog

Agenda Item 8 Intergovernmental Relations Reports and Administrative Services Update

A. DCA Update – Judie Bucciarelli, SSMI, DCA Executive Office

Ms. Bucciarelli updated the Board on the budget position cuts, new appointments in the State, updated workplace violence prevention policy and training requirements. Board members must attend Board Member training, this will be available online and must be completed in a year of appointment. Update of the DCA Military licensing and resources. The DEI steering committee met and included discussion of training, expanding language access and inclusion in the annual report. Some Boards are expanding their languages in printed material for the consumers. There is a phishing alert for all Boards and Bureaus. Please report any incidents immediately to the Office of Information Security. The full audio of Agenda Item 8(a) can be found [here](#). Madame President Pines opened comments for Agenda Item 8(a).

The Board Members discussed the Intergovernmental Relations and Administrative report with Ms. Bucciarelli.

No comments from the public in attendance.

No comments from the public online.

B. Budget Update - Harmony DiFilippo, SSMI, Budget Office and Kirsten Cox, Budget Analyst, Budget Office

Ms. Cox from the DCA's Budget Office provided an update on the Board's budget. The Board Meeting materials can be found [here](#). The full audio of Agenda Item 8(b)

can be heard [here](#).

Madame President Pines opened comments for Agenda Item 8(b).

No comments from Board Members or the public in attendance.

No comments from the public online.

15 MINUTE BREAK

Machiko Chong, Licensing Program Manager, called roll and determined a quorum was present.

Agenda Item 9 Licensing Program Summary, including licensing unit updates, and statistics - *Machiko Chong, Licensing Program Manager*

Ms. Chong, Licensing Program Manager, provided a licensing unit summary, including licensing unit updates and statistics. The board meeting materials can be found [here](#), including attachment [9\(a\)](#) and [9\(b\)](#). Full audio of Agenda Item 9 can be heard [here](#).

Madame President Pines opened comments for Agenda Item 9.

Board Members discussed the Licensing Program Summary and received answers from Ms. Chong.

No comments from public in attendance.

No comments from the public online.

Agenda Item 10 Administrative Services Program Summary, including licensing unit updates, and statistics - *Terri Thorfinnson, Administrative Services Program Manager*

Ms. Thorfinnson, Administrative Services Program Manager, provided an update on the administrative services program, which included the transition of fictitious name permits and name changes to online applications. Ms. Thorfinnson also presented the statistics for the Administrative Services Program. The board meeting materials can be found [here](#), including attachment [10\(a\)](#). Full audio of Agenda Item 10 can be heard [here](#).

Madame President Pines opened comments for Agenda Item 10.

Board Members discussed the Administrative Services Program Summary and had their questions answered by Ms. Thorfinnson and Director Calderon.

No comments from the public in attendance.

No comments from the public online.

Agenda Item 11 Enforcement Program Summary, including enforcement unit updates, and statistics – *Erika Calderon, Executive Director*

Director Calderon gave an update on the Board's Enforcement Program, including enforcement unit updates and statistics, which was included in the board meeting

material [here](#) and attachment [11\(a\)](#). The full audio of Agenda Item 11 can be found [here](#).

Madame President Pines opened comments for Agenda Item 11.

No comments from Board Members.

Comments from the public in attendance can be heard [here](#).

Comments were made by:

Holly Macriss, Executive Director, OPSC

Comments from the public attending remotely can be heard [here](#).

Comments were made by:

Tracy Dominguez, Consumer Watchdog

Agenda Item 12 Probation Program Summary, including probation unit updates and statistics - *Ralph Correa, Probation Monitor*

Mr. Correa, Probation Monitor, presented the total number of probationers, new probationers, non-compliant probationers, and the diversion program statistics. The licensee website and all discipline summaries are now up to date. The Board meeting materials can be found [here](#). The full audio of Agenda Item 12 can be found [here](#).

Madame President Pines opened comments for Agenda Item 12.

Board members discussed the Probation Summary and had their questions answered by Mr. Correa and Director Calderon

No comments from the public in attendance.

Comments from the public attending remotely can be heard [here](#).

Comments were made by:

Michele Monserat Ramos, Consumer Watchdog

45 MINUTE BREAK FOR LUNCH

Machiko Chong, Licensing Program Manager, called roll and determined a quorum was present.

Agenda Item 13

Discussion and Possible Action to Reconsider Previously Approved Text, and to Consider Initiation of a Rulemaking to Amend Sections 1635, 1636, 1638, 1641, 1646, 1659.30, 1659.31, 1659.32, 1659.33, 1659.34 and 1659.35 and Repeal Sections 1639 and 1640 in Title 16 of the California Code of Regulations (Requirements for Continuing Medical Education and Citation and Fines) - Terri Thorfinnson, Administrative Services Program Manager and Kristy Schieldge, Attorney IV, Legal Affairs Regulations Unit, DCA

Ms. Thorfinnson provided an overview of the proposed language which explained that the majority of the proposed language was already approved by the Board, but revisions

were required to make corrections to the text for the reasons outlined in the meeting memo and directing the Board's attention to the attachments and the revised text, which the Board needs to review and approve at this meeting. Ms. Thorfinnson went line by line in the proposed language highlighting the revisions to the prior version of text on screen as set forth in Attachments 1 and 2 and restating the explanations for these changes from the meeting memo. The changes involved existing statutory mandates for Continuing Medical Education that required amendments to several of the regulatory sections previously approved by the Board. There were additional amendments adding technical requirements related to Citations for Unlicensed Practice involving the Franchise Tax Board's Tax Intercept Program that were also proposed. She requested that Regulations Counsel provide additional overview for why further changes were necessary.

Ms. Schieldge explained that while discussing whether pending legislation would impact this rulemaking with Board Counsel, she recognized that some areas of Article 10 of Chapter 5 of Division 2 of the Business and Professions Code relating to continuing medical education had been missed, and so this revised proposal would add those items consistent with what the Board is currently telling licensees online that they need to complete to renew their licenses. The goal of this proposal is to have all the requirements including waivers and exemptions from continuing medical education in one convenient location so that staff and the regulated community have a clear understanding of what the current requirements are. The current regulations are from the 1980s and early 90s and are not tracking what the Board is currently recommending, so the updates include the process of going through those regulatory requirements and updating them in accordance with current law and adding further specificity for those areas where the Board has not fully implemented, for example the exemptions from the 12-hour pain management course requirement in Business and Professions Code section 2190.6.

Ms. Thorfinnson highlighted the exemptions to the 12-hour pain management course in proposed CCR section 1635(f), particularly for an individual considered a "qualifying physician" in proposed subsection (f)(6).

Board member Lockman asked whether the term "qualifying physician" as defined federally could be interpreted to include non-MD or non-DOs practitioners who claim to be "physicians," for example a chiropractic physician. Ms. Thorfinnson referred to Attachment 3 and requested that Regulations Counsel explain her research.

Ms. Schieldge explained that the term "qualifying physician" is only used for the purpose of explaining it in relation to the use of that term in Business and Professions Code section 2190.6, which reads, in relevant part, as follows:

(a) As an alternative to section 2190.5, a physician and surgeon may complete a one-time continuing education course of 12 credit hours in the subject of treatment and management of opiate-dependent patients, including eight hours of training in buprenorphine treatment, or other similar medicinal treatment, for opioid use disorders.

(b) A physician and surgeon who meets the requirements, as determined by the board, of a "qualifying physician" under clause (ii) of subparagraph (G) of paragraph (2) of subsection (g) of section 823 of Title 21 of the United States Code, the Comprehensive

Addiction Recovery Act of 2016 (Public Law 114-198), as that clause read on January 1, 2018, shall be deemed to have met the requirements of subdivision (a).

So that term is listed in CCR section 1635 only for the purpose of explaining what “qualifying physician” meant at the time under federal law and further specifying the options for exemption from the 12-hour pain management course. Since the law at 21 USC section 823 has changed since 2018, she had to do extensive research and figure out what the law looked like on January 1, 2018. Attachment 3 is what she believes the status of the federal law was at that time and from that she distilled the requirements to be used in the regulation so that no one on staff or in the regulated community has to “hunt and peck” for what the law said in 2018, and by extension, the exemptions from the 12-hour pain management course. She explained that she simply took the information from federal law, with some slight changes, and moved it into this regulatory proposal so that physicians would understand what it would take to exempt themselves from this requirement.

Board member Patel agreed that this definition for “physician” for this regulatory proposal works for this purpose, but agreed there are more issues to address when someone calls themselves a “doctor”. Ms. Thorfinnson confirmed that the law uses the term “physician and surgeon” as the title and the regulations are consistent with that title.

Board member Lockman raised concerns with use of the word “qualifying practitioner” in federal law as described on p. 4 of the memo and asked if there was a way to change it to “qualifying physician.” Ms. Thorfinnson replied that it would literally require an act of Congress as they say. Ms. Thorfinnson requested that Regulations Counsel provide any further input on the need for the remaining changes.

Ms. Schieldge further explained that CCR section 1636 covers the documentation that the Board would accept as satisfactory evidence of compliance. She indicated that was important for auditing and compliance purposes that this section tracked, for each requirement, exemption or waiver, what the Board would accept as documented proof of meeting the Board’s requirements. She also explained that updates to the requirements in proposed CCR section 1659.33 are necessary to comply with the State Administrative Manual’s Franchise Tax Board’s (FTB) intercept program, which is a state requirement for all administrative agencies to follow. Updates to section 1659.33 were added so that the regulated community understands that these notice requirements must be met by the Board prior to the Board’s attempt to intercept a refund, and also to provide transparency regarding the processes and procedures the Board must follow to comply with the FTB’s tax (refund) intercept program.

No comments were received from the public.

Madame President called for a motion to approve the proposed regulatory language.

Motion moved by Dr. Patel: Approve the proposed regulatory text to amend 1635, 1636, 1638, 1641, 1646, 1659.30, 1659.31, 1659.32, 1659.33, 1659.34 and 1659.35 and repeal sections 1639 and 1640 in Title 16 of the California Code of Regulations as set forth in Attachment 1, and to direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing

Agency for review and if no adverse comments are received, authorize the Executive Director to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day public comment period and no hearing is requested, to authorize the Executive Director to take all steps necessary to complete the rulemaking and adopt the proposed regulations as noticed.

Second – Dr. Swain

Roll Call Vote Taken

- Lockman – Present
- Patel – Aye
- Swain – Aye
- Moreno – Aye
- Pines – Aye

The motion carried and the Board approved the proposed language without changes.

No comments from the public in attendance.

No comments from the public online.

The board meeting materials can be found [here](#).

Agenda Item 14

Discussion and Possible Action to Initiate a Rulemaking to Amend sections 1609, 1610; 1611, 1612, 1613, 1615, 1628, 1630, 1637, 1646, 1647, 1650, 1651, 1656, 1658, 1678, and 1690, and to adopt section 1648, and to repeal section 1691 in Division 16 of Title 16 of the California Code of Regulations (Applications, Petitions, Fees, Retired License and Processing Times) - Terri Thorfinnson, Administrative Services Program Manager and Kristy Schieldge, Attorney IV, Legal Affairs Regulations Unit, DCA

Ms. Thorfinnson provided an overview of the proposed changes and regulatory language and attachments presented to the Board members as provided in the meeting materials. Executive Director Calderon clarified the order and subject matter of each of the attachments presented at the meeting for Board member consideration as follows: Attachment 1 proposed regulatory language for applications, fees, retired license status, and the petition for penalty relief, Attachment 2 the repealed application for physician's and surgeon certificate, Attachment 3 the proposed application for retired license, Attachment 4 the proposed application to restore retired license to active status, Attachment 5 the proposed application for petition for penalty relief, Attachment 6 the fiscal impact workload cost tables for each of the fees that the Board is either proposing to increase or update, and Attachment 7 the Osteopathic Medical Board's 1987 rulemaking file for CCR 1691.

Ms. Thorfinnson proceeded go through each section and provide highlights of the changes in the proposed language starting with an overview of the proposed language to amend California Code of Regulations (CCR) section 1609 "postgraduate registration" by striking reference to CCR section 1691. For California Code of

Regulations (CCR) section 1610 “applications” subsection (a) the Board proposes to update the Board’s licensing application and procedures for processing an application for a physician and surgeon certificate, including striking reference to refund of the application fees in the title since the proposed amendment removes the authority for the Board to refund an application processing fee. In addition, the amendments would: (A) repeal the existing outdated paper form application and specify in regulation that the application shall be submitted to the Board using BreEZe (the Board’s online licensing portal), and, (B) make specific the requirements which shall be included in the application in lieu of incorporating an application by reference.

Ms. Schieldge added that once again the Board has before them another very outdated regulation. The last time these regulations were substantively revised were in 1995, and, at that time, the Board was still using paper applications. In these proposed amendments, the Board is trying to capture what is required to submit these applications through the Board’s electronic submission portal BreEZe. These changes describe how to create a portal account, what is required to submit the application electronically, and how the applicant would be deemed to have legally signed the application.

Ms. Thorfinnson highlighted the signature requirement for the application in CCR section 1610 and the one-year period to complete the application before the application is considered abandoned by the applicant. Furthermore, Ms. Thorfinnson discussed the Board’s proposed revisions allowing the Board to accept electronic submission of verification documents such as school transcripts and examinations in proposed CCR section 1611. In terms of the evidence of professional responsibility, the proposal would make non-substantive changes to amend CCR section 1612 to replace gendered terms with gender-neutral language. The proposal would also amend CCR section 1613(a) to make specific the current photo and fingerprint requirements when filing an application for a physician and surgeon’s license by repealing outdated requirements for a 3” X 4” photo with proof of negatives to include a 2 X 2 digital photo which could be uploaded through the Board’s website as part of the application. This proposal would also amend subsection (b) of this section to specify the process an applicant is currently required to follow to submit or re-submit fingerprints as part of the Board’s criminal background check through the FBI and California Department of Justice, including requirements for using electronic “Live Scan” fingerprinting for applicants in California, or fingerprint cards (residing outside of California and unable to Live Scan) in proposed revisions to CCR section 1613.

Ms. Schieldge explained that when the regulation on fingerprinting was first adopted submission of fingerprints included hard cards. However, since the early 2000’s, the electronic submission of fingerprinting has been adopted by the Department of Justice through the “Live Scan” process and the regulation proposal is tracking that change in CCR section 1613. Ms. Schieldge further explained that there may be some instances where individuals might not be able to submit electronic fingerprints as they may be residing outside of California where Live Scan services may not be available. So, the Board is proposing to continue to accept some hard card submissions under those circumstances.

Ms. Thorfinnson continued to highlight the proposed changes and discussed how the proposal would amend CCR section 1615 subsection (a) to replace gendered terms

with gender-neutral terms. In the certification of credentials to another state, the proposal would amend CCR section 1628 to strike subsection (d) of that section since the authority to set time frames for processing licenses was established with the “Permit Reform Act (Act) of 1981” (Government Code sections 15374-15378), which has since been repealed.

In terms of the active practice requirements in CCR section 1630 the “good standing requirements” would amend CCR section 1630 subsections (a) and (b) to be consistent with BPC section 2455, which does not use the words “tax and registration” fees, but rather add the “biennial renewal” fees terminology and clarify the timing of when the payment is due. In addition, this proposal would strike subsection (c) of this section since the authority to set time frames for processing licenses was established with the “Permit Reform Act (Act) of 1981” (Government Code sections 15374-15378), which has since been repealed.

On page eleven, the waiver of requirement section, the proposal would amend CCR section 1637 to strike subsection (c) of this section since the authority to set time frames for processing licenses was established with the “Permit Reform Act (Act) of 1981” (Government Code Sections 15374-15378), which has since been repealed.

For CCR section 1646 (procedure for obtaining an inactive certificate or for restoration to active status), this proposal amends CCR section 1646 to strike subsection (e) of this section since the authority to set time frames for processing licenses was established with the “Permit Reform Act (Act) of 1981” (Government Code sections 15374- 15378), which has since been repealed.

For CCR section 1647 (inactive license issuance, renewal and fees), this proposal would amend section 1647 to change the title to reflect the subject matter of this regulation more accurately. It would further amend subsections (a) and (b) by replacing the word “certificate” with “license” to be consistent with BPC section 2456.1 (which refers to “license” when being renewed), strike references to “birth month” and replace it with renewal on “or before” the last day “before expiration” consistent with changes to renewal requirements implemented by BPC section 2456.1, and to strike subsection (c) of this section since the authority to set processing times for licenses was established with the “Permit Reform Act (Act) of 1981” (Government Code sections 15374-15378). That Act has since been repealed.

Ms. Thorfinnson then explained the proposal would add CCR section 1648 to specify requirements for entering retired license status and for restoring a retired license back to active status. AB 2859 (Low, Stats. 2016, Ch. 473) created the authority for the Board to establish retired license status and a process for restoring the license back to active status with the implementation of BPC section 464. Currently, licensees who no longer wish to practice must either utilize the inactive status and pay the biennial renewal fee or choose not to renew in active status, let their license expire into delinquent status, and cancel after five years. By providing a means to obtain a retired status, licensees who no longer practice avoid the possible stigma in their professional community from having a license placed in a “delinquent” or “cancelled” status and can be relieved from the expense of renewal fees. To facilitate the process of applying for retired status or restoring a retired status to active status, staff have proposed adding Forms OMB.31 (New 08/2024) “Application for Retired License”, and OMB.32 (New 08/2024)

“Application to Restore Retired License to Active Status,” which are hereby incorporated by reference in this proposed section.

For CCR section 1650 (applications for restoration of forfeited certificates), the proposal would amend CCR Section 1650 to strike references to the biennial “tax and registration fee” and update it to make language regarding the biennial “renewal fee” consistent with BPC section 2455 and to strike the reference to processing times for licenses since the authority to implement those requirements was established with the “Permit Reform Act (Act) of 1981” (Government Code sections 15374- 615378), which has since been repealed.

Executive Director Calderon mentioned that she has seen a high demand for this license status. Ms. Schieldge advised that under this proposal the ability to restore a retired license is only good for five years from when the licensee enters the retired status. After five years, the osteopathic physician and surgeon will have to start over and submit an application for a new license if they wish to obtain an active license with the Board again.

Board Member Dr. Brett Lockman asked a hypothetical question about a licensee who may find themselves pending disciplinary action and whether they can enter into a retired license to avoid discipline. Ms. Schieldge responded by advising that the licensee would not be eligible to place their license in a retired license status if they have pending discipline, the Board would have to consent to allow the licensee off probation as set forth in any standard Board disciplinary decision and order placing the licensee on probation; the licensee could not “switch” their status to retired on their own motion. Ms. Thorfinnson also indicated that all decisions would still come before the Board.

Ms. Thorfinnson continued to provide highlights to the proposed changes, as follows. For CCR section 1651 (failure to renew certificate within five years), this proposal would amend CCR section 1651 to remove the reference to an application for a Physician and Surgeon license referenced here since the form is proposed to be repealed in this proposal. Instead, a cross-reference to CCR section 1610 would be added to the introduction for accuracy since section 1610 would include a list of application requirements for submitting a completed application to the Board and not a form. It also replaces gendered terms with gender-neutral language for compliance with Assembly Concurrent Resolution No. 260 of 2018 (ACR 260), which states that “state agencies should use gender-neutral pronouns and avoid the use of gendered pronouns when drafting policies, regulations, and other guidance.”

For CCR section 1656 (petitions for reinstatement or modification of penalty), this proposal amends CCR section 1656 to strike subsection (d) of this section since the authority to implement license application processing times was established with the “Permit Reform Act (Act) of 1981” (Government Code sections 15374-15378), which has since been repealed. This proposal also adds a new sentence to subsection (a) incorporating the newly developed form “Petition for Penalty Relief” Form OMB.7 (New 08/2024), by reference, and requires payment of the newly established nonrefundable petition for reinstatement and modification of penalty application fees, as applicable. Both fees are proposed to be added to CCR section 1690 (discussed below) pursuant to SB 815 (Roth, Stats. 2023, Ch. 294). This proposal also updates authority cited for promulgating this regulation in the “Note” section.

For CCR section 1658 (petitions for reinstatement of certificates restricted or revoked due to mental or physical illness), the proposal amends CCR section 1658(a) to add a new cross-reference to the Petition for Penalty relief form listed in CCR section 1656 and payment of the fee required by CCR section 1690 since the same petition and payment process would apply to this type of petition in accordance with BPC sections 2307 and 2307.5. In addition, subsection (b) of this section would be struck since the authority to implement the application processing times was established with the “Permit Reform Act (Act) of 1981” (Government Code sections 15374-15378), which has since been repealed. This proposal also adds BPC sections 464 and 2018 as the authority to promulgate regulations in general and specific to retired licenses and adds reference codes to identify the statutes on which the sections are based in the “Note” section of this regulation.

For CCR section 1678 (application and renewal), the proposal would amend CCR section 1678 to strike references to processing times in subsections (c) and (d) of this section since the authority to implement those requirements was established with the “Permit Reform Act (Act) of 1981” (Government Code sections 15374- 15378), which has since been repealed.

For CCR Section 1690 (fees), the proposal would amend CCR section 1690 to specify all fees are nonrefundable since the Board bears administrative costs for processing the varying applications regardless of the outcome. Subsection (a) would add a reference to “or reciprocity” before the words “certificate application,” as the Board proposes to merge the two items together for ease of reference. References to \$100 being returned to applicants if credentials are insufficient would be struck consistent with other changes made in this proposal.

A workload analysis of administrative costs was completed for the justification to increase the fee for a physician and surgeon’s original certificate application fee from \$200 to \$400. The fees charged by the Board are required to be sufficient to support the functions or operational needs of the Board. According to the State of California’s State Administrative Manual (SAM – which applies to all state agencies and is published by the Department of General Services), SAM section 9210 provides that it is state policy for departments to recover full costs whenever goods or services are provided to others. Section 9210 of the SAM specifies that full costs include “all costs attributable directly to the activity plus a fair share of indirect costs which can be ascribed reasonably to the good or service provided.” Attachment 6 shows that the costs for processing this application are \$518; however, the fees the Board may charge for the recovery of its costs for this application are capped at \$400 per BPC section 2455. Subsection (b) is stricken because it was merged with subsection (a) and a workload analysis of administrative costs justified the increase in fee since the processing is the same as processing for an original applicant. Subsection (c) becomes the new subsection (b) and specifies the license title as “post graduate” to be consistent with BPC section 2064.5. Subsection (d) becomes the new subsection (c) with no other change. Subsection (e) becomes the new subsection (d) and language is amended to replace “Tax and Registration” with “Biennial Renewal” fee to be consistent with BPC section 2455. Subsection (f) becomes the new subsection (e) and amends the Biennial Inactive item to change “certificate” to “license” to be consistent with BPC section 2455 and increases the fee from \$300 to \$399.

Ms. Thorfinnson explained that the workload analysis is provided in Attachment 6 for justification of the fee increase. However, again it shows that the costs for processing this application are \$400, but the Board is required to levy a fee that is “less” than what is charged for an active licensee per BPC section 2455(c). Subsection (g) becomes the new subsection (f) and is amended to replace Delinquent “Tax and Registration” with “Renewal” to be consistent with BPC section 2455, and increases the fee from \$100 to \$200, which is half the renewal fee as authorized by BPC section 2455(d). Subsection (h) becomes the new subsection (g) and adds the word “Fee” after “Renewal” for language to be accurate and to ensure the use of consistent terminology. Subsection (h) is added to establish the Retired License Fee as \$200. The workload analysis is attached for justification in Attachment 6 and shows a cost of \$234 to process this application. Subsection (i) is added to establish the Application to Restore Retired License to Active Status processing fee is \$400.

Ms. Thorfinnson then proceeded to give an overview of the attachments included in the meeting materials, including the repeal of Form “Application for Physician’s and Surgeon’s Certificate” OMB.1 Rev.01/92 (Attachment 2), adoption of Form “Application for Retired License” OMB.31 (New 08/2024) (Attachment 3), and adoption of Form “Application to Restore Retired License to Active Status” OMB.32 (New 08/2024) (Attachment 4).

Board President Denise Pines noted that the application is not asking for a physicians and surgeons’ cell phone number.

Ms. Schieldge advised that it is up to the applicant to provide whichever number they wish to be contacted at and the primary purpose is to collect the most effective information that the Board would use to contact the applicant but leave it up to the applicant to decide what telephone number to provide.

Board President Denise Pines explained that she doesn’t believe that the form should require a cell phone number but if the Board is adopting new forms that it should really consider adding a section for the cell number.

Ms. Thorfinnson requested other input from other members on this issue.

Board member Dr. Matthew Swain suggested that the form should just simply request the Board’s “best contact phone number” or the number for which the licensee wishes to be contacted.

Executive Director Calderon noted that Board staff typically don’t call the licensees work number to get a hold of them, and suggested to have the application simply list daytime number and or add another section entitled “cell number.”

Executive Director requested clarification from Ms. Schieldge if it is possible to make that change upon the Board members’ request at the meeting. Ms. Schieldge advised that it is possible as long as the motion captures the proposal.

Board member Dr. Hamesh Patel commented that the application has no indication that the phone numbers provided will be maintained as confidential.

Ms. Schieldge advised that the Board has a notice of collection of personal information at the bottom of the application form at the section entitled "Attachment A – Personal Information Collection Notice". It describes when that information would be disclosable and under what circumstances it would be released. She asked Board staff to clarify that these phone numbers are not posted on the Internet or published. Executive Director Calderon confirmed that such numbers are not posted on the Internet or published by the Board, only the address of record.

Ms. Schieldge advised that there may be circumstances where the Board may be required to release the information collected on the form, including phone numbers, and that the Notice on the forms does provide notice of that. This would include if the Board received a subpoena or a search warrant, which require that such information be released as required by law. Ms. Schieldge suggested that the Board can add an asterisk to draw the licensee's attention to the bottom of the page so they may read the disclosure prior to determining what phone number they wish to provide.

Ms. Thorfinnson suggested indicating on the form that the Board has collected confidential information, but it may be released under specified circumstances, and asked Board member Dr. Hamesh Patel if that is what he is seeking to address. Dr. Hamesh Patel expressed concerns about situations where physicians might be stalked using this information and indicating that it is the Board's responsibility to not only to protect the public but our licensees as well.

Board member Dr. Brett Lockman stated that in reading the personal collection information notice language listed in "Attachment A" of the applications, the disclosure doesn't specify that the collected information would not be supplied except through a subpoena or a search warrant and that the Board should probably add that to the application to make it clearer to the average licensee. He further stated that if the language included such disclosure the licensee would be more inclined to understand the limits of the release of that cell phone information.

Board member Dr. Hamesh Patel indicated agreement with Board member Dr. Brett Lockman's comment.

Ms. Schieldge discussed Civil Code section 1798.24 and those circumstances where personal information may be released. She proposed adding the following to the Personal Information Collection Notice section on the application forms to address Board member concerns:

"While we make every effort to keep personal information confidential, including telephone numbers, information provided on this application may be transferred to the Department of Justice, a District Attorney, a City Attorney, or to another government agency, or pursuant to court order, discovery or subpoena or otherwise in accordance with Civil Code section 1798.24."

Board member Dr. Hamesh Patel commented that he suspects that licensees would be hesitant to provide the Board with their cell phone number even with the understanding that it will not be released unless it meets the requirements specified in the Notice, and most licensees would be likely to supply the Board with a work number. Ms. Schieldge indicated that the Board just needs to be able to reach the applicant at that number, so

a work number would be acceptable under this proposal. Executive Director indicated that this is template language that is used by other boards in the Department, and it seems to work well for them.

Ms. Thorfinnson asked the members if Ms. Schieldge's proposed language would be sufficient to satisfy the members' concerns.

Ms. Schieldge read her proposed revisions again for the record, and stated that the proposal would be for the Board to delete the sentence that is currently at the bottom of the disclosure under the words attachment A "Personal Information Collection Notice" where it starts with "Information provided may be transferred..." and instead suggest that the Board add:

"While we make every effort to keep personal information confidential, including telephone numbers, information provided on this application may be transferred to the Department of Justice, a District Attorney, a City Attorney, or to another government agency, or pursuant to court order, discovery or subpoena or otherwise in accordance with Civil Code section 1798.24. Your address of record will be posted on the Internet and be made available to the public."

That way, the Board can be very transparent about what's going to be posted. Board member Dr. Hamesh Patel and Board member Dr. Brett Lockman expressed agreement with Ms. Schieldge's recommendation. Ms. Schieldge asked if the Board members have any other questions or changes to this form.

Board President Denise Pines stressed that she felt like her original question was not answered and requested if it's possible to add "primary phone" and add a box where the licensee can check if the phone number being provided is a cell phone number or a work number.

Board member Dr. Brett Lockman asked if the Board is able to communicate via text with licensees and applicants.

Executive Director Calderon stated that not all Board staff are issued cell phones and should not utilize personal cell phones to communicate with the general public or licensees as their personal cell phones would be subject to a Public Records Act (PRA) request.

Ms. Schieldge expressed agreement with Director Calderon's comment and suggested that it would be best to leave it to the licensee so they can supply the Board with a work phone and "best available" telephone contact number at their discretion and expressed concern about mandating that everyone be required to provide a cell phone number on the application. She would recommend leaving it up to the applicant's discretion regarding what telephone number they want to provide.

Board member Dr. Matthew Swain commented that the Board should only be collecting information that it would be utilizing and suggests that work phone be removed altogether and move forward with the best available contact number only.

Board member Hamesh Patel agrees with member Dr. Matthew Swain and Board

member Dr. Brett Lockman reiterated the recommendation.

Executive Director Calderon explained that it is important for enforcement-related matters that the Board collect a work phone just in case the the Board or staff cannot get ahold of a licensee at their personal phone number, and she recommended adding the “Best Available Telephone Contact Number” in lieu of “Daytime Phone” or “Home Phone.”

Board member Dr. Hamesh Patel agreed with Executive Director Calderon.

Board President Denise Pines requested a Board consensus and several members suggested “personal phone” and “primary phone” in lieu of “Daytime Phone.” Ms. Schieldge expressed concern about that being too prescriptive and mandating the type of phone number and recommended that the Board go with “work phone” and “best available phone number” (which could be either work or personal phone) and the change be made to both Board application forms OMB 31 and OMB 32.

Ms. Thorfinnson then proceeded with presenting an overview of the petition for penalty relief application. Executive Director Calderon stated that this form is already being utilized and the only change made to the form was to add the fees associated with the application. Executive Director Calderon also suggested to update the contact information to mirror the other two applications’ changes previously discussed and explains that this application can be used for either a petition for reinstatement, early termination of probation, or other modification of penalty.

Ms. Thorfinnson, Director Calderon, and Ms. Schieldge discussed the fee analysis for the applications. Executive Director Calderon explained that the goal for this portion was to align regulations with the Board’s current statutory authority. This proposal also would clean up existing language, introduce a new application and retired license status and bring all application fees into alignment with the Board’s statutory authority and set the petition application fees which the Board was granted the authority to impose based on Senate Bill 815. This proposal is proactive and helps ensure the fiscal solvency of the Board going forward by charging the actual costs for the services being provided.

Ms. Schieldge added that the Board is required under the SAM manual to recover all costs associated with processing and providing services within the Board’s statutory authority. Currently the Board is losing money because it is not collecting all costs that it can under its current authority.

Ms. Thorfinnson explained that all of the charts included in the proposal are provided in the workload analysis in Attachment 6 and it shows all workload costs that are associated with each application and asked if there are any comments from the Board.

Board member Dr. Brett Lockman asked when these changes might become effective, and Ms. Thorfinnson responded by saying when the regulation be approved by the Office of Administrative Law is difficult to pin point but the Board has one year from the date of noticing the regulation to adopt or the Board would have to start over.

Board member Dr. Hamesh Patel wishes to confirm that there is no increase for renewals and that the renewal fee is still \$400.00. Ms. Thorfinnson confirmed and

explained that if the Board wishes to increase the fee beyond this amount, the Board would have to seek a legislative change and discussed how the Board historically would approach a legislative increase once fees have been “capped out” under current legislative authority.

Board member Dr. Hamesh Patel wished to clarify that the retired license means you cannot practice medicine and that the retired status would stay on the record forever once it’s entered. Ms. Thorfinnson explained that it would be on the record and they have a five-year period to change back to active status. Executive Director Calderon explained that it removes the stigma of the “cancellation” status on the Board’s website, but under this proposal they have 5 years to come out of retirement to reinstate. Otherwise, they would have to start over with a new initial license application.

Finally, Ms. Thorfinnson presented Attachment 7, which is the Board’s 1987 administrative regulation filing with the OAL as recommended by Ms. Schieldge. Ms. Schieldge explained that this attachment shows that the filing included a permit processing times table (see CCR section 1691) that seemed to have information that was cut off. Ms. Schieldge explained that this attachment shows that what is in the meeting materials is an accurate representation of how that chart was filed with OAL originally in 1987 and not a typographical mistake in the materials.

Executive Director Calderon formally thanked Ms. Schieldge and Ms. Thorfinnson for all of their work in putting together the regulatory packet materials. Ms. Schieldge recommended two motions: one to make the changes to the proposed regulations as discussed at the meeting, and, a second motion to formally approve the text as amended and authorize initiation and possible adoption of the regulatory language.

Ms. Schieldge suggested that the first motion would be to approve the proposed regulatory text as provided in the attachments with the following changes:

(A) The following amendments to proposed Forms OMB.7., OMB.31 and OMB.32,

Delete references to “Daytime Number” on OMB.31 and OMB.32 and “HOME TELEPHONE NUMBER” and “CELL PHONE NUMBER” on OMB.7. and instead add a “Best Available Telephone Number” Reference.

(B) For changes to OMB.31, and OMB.32. under the words “Attachment A” and the “Notice of Collection of Personal Information”:

(1) Strike the sentence: “Information provided may be transferred to the Department of Justice, a District Attorney, a City Attorney, or to another government agency as may be necessary to permit the Board, or the transferee agency, to perform its statutory or constitutional duties, or otherwise transferred or disclosed as provided in Civil Code Section 1798.24.”

And instead add the following sentences:

(2) While we make every effort to keep personal information confidential, including telephone numbers, information provided on this application may be

transferred to the Department of Justice, a District Attorney, a City Attorney, or to another government agency, or pursuant to court order, discovery or subpoena or otherwise in accordance with Civil Code section 1798.24. Your address of record will be posted on the Internet and be made available to the public.

Board member Dr. Brett Lockman pointed out that in addition to the motion he would like to correct the word “post graduate” in CCR section 1692(b) to be reflected as one word “postgraduate”.

Board President Denise Pines asked for a member to make the motion presented by Regulations Counsel with the additional change recommended by Dr. Lockman.

Motion – Dr. Swain

Second – Dr. Lockman

Roll Call Vote Taken

- Lockman – Aye
- Moreno – Yes
- Patel – Aye
- Pines – Yes
- Swain – Yes

Motion carried to adopt the proposed changes.

No comments from the public in attendance.

No comments from the public online.

Ms. Schieldge provided suggested language for the second motion at the request of the Board President, as follows:

To submit the approved text as discussed and approved at this meeting and submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Director to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the text and the package, and set the matter for a hearing if requested. If after the 45-day public comment period, no adverse comments are received, and no public hearing is requested, authorize the Executive Director to take all steps necessary to complete the rulemaking, and adopt the proposed regulations as noticed.

Board President Denise Pines asked for a member to make the second motion as presented by Regulations Counsel.

Motion – Dr. Patel

Second – Dr. Lockman

Roll Call Vote Taken

- Lockman – Aye
- Moreno – Yes
- Patel – Aye
- Pines – Yes
- Swain – Yes

Motion carried to adopt.

No comments from the public in attendance.
No comments from the public online.

The board meeting materials can be found [here](#).

5 MINUTE BREAK

Machiko Chong, Licensing Program Manager, called roll and determined a quorum was present.

Agenda Item 15 Discussion and Possible Action on Legislation – Terri Thorfinnson, *Administrative Services Program Manager*

Ms. Thorfinnson gave a summary of the current legislation and legislation for the Board to consider taking action on. The board meeting materials can be found [here](#). The full audio of Agenda Item 15 can be heard [here](#).

2024 Legislation for the Board to Consider Taking Possible Action On

SB 233	(Skinner) Abortions and abortion-related care for Arizona patients
SB 1451	(Ashby) Title Protection Physician and Surgeons
AB 2164	(Berman) Impairment Question on Applications
AB 1991	(Bonta) HCAI Survey: Healing Arts: Workforce Data
AB 2862	(Gipson) Expedite license for African American applicants
AB 2270	(Maienschein) CME: Menopausal Mental Health or Physical Health
AB 2581	(Maienschein) CME: Maternal Mental Health
AB 2442	(Zbur) Expedite License: Gender Affirming Care or Mental Health
AB 3119	(Low) Long Covid CME
AB 639	(Limon) CME: Special Needs of Dementia Patient Care
AB 3030	(Calderon) Health Care Services: AI disclosure
SB 607	(Portantino) Controlled Substance: Patient Education: Adults
SB 636	(Cortese) Workers' Compensation Utilization Review
AB 3127	(McKinnor) Mandatory Reporting: Physicians
SB 1067	(Smallwood Cuevas) License Expedite for medically underserved

	areas within Healing Arts Boards
AB 2269	(Flora) Board Membership: Conflict of Interest
SB 1012	(Weiner) Psychedelic Facilitators: Establish Regulatory Body
AB 3146	(Essayli) Prohibition of Sex Re-Assignment for Minor

Comments from the public in attendance and Board members can be heard [here](#).

Comments were made by:

Holly Macriss, Executive Director, OPSC

Agenda Item 16 Future Agenda Items

There will be a presentation on the “Aging Brain” in November of 2024. Also it has been requested that the AG provide a detailed presentation on the disciplinary process.

Madame President Pines would like to propose establishing 3 committees. An Executive Committee, Licensing Committee, Discipline Committee and Education Committee.

Possible legislation day. To let our legislatures know who we are, what we do and advocate for ourselves.

The full audio for Agenda Item 16 can be heard [here](#).

Comments from the public can be heard [here](#).

Comments were made by:

Michelle Monserrat-Ramos, *Consumer Watchdog*

CLOSED SESSION

Deliberation on disciplinary matters, including proposed decision, non-adopt proposed decisions, and stipulations (Government Code section 11126 (c)(3)).

No closed session discussion.

Agenda Item 17 Adjournment

Adjourned at 3:58 pm.