



BOARD MEETING MINUTES

Thursday, October 19, 2017

BOARD MEMBERS PRESENT: Joseph Zammuto, D.O., President
James Lally, D.O., Vice President
Elizabeth Jensen, D.O., Board Member
Claudia Mercado, Board Member
Andrew Moreno, Board Member
Cheryl Williams, Board Member

STAFF PRESENT: Angelina Burton, Executive Director
Terri Thorfinnson, Assistant Executive Director
Sabina Knight, Esq., Legal Counsel, DCA
Machiko Chong, Executive Analyst
Corey Sparks, Lead Enforcement Analyst
Donald Krpan, D.O., Medical Consultant

BOARD MEMBERS ABSENT: Cyrus Buhari, D.O., Secretary Treasurer
Megan Blair, Board Member

The Board meeting of the Osteopathic Medical Board of California (OMBC) was called to order by President, Joseph Zammuto, D.O. at 10:07 a.m. at Department of Consumer Affairs (HQ2) - 1747 North Market Blvd., Sacramento CA 95834.

1. Roll Call

Mrs. Chong called roll and Dr. Zammuto determined that a quorum was present.

Upon Cheryl Williams's arrival Dr. Zammuto administered an oath commencing her reappointment as a board member.

2. Public Comment for Items Not on the Agenda

No Public Comment was received by the Board.

3. Introduction of New Board Member(s) and Legal Counsel

Dr. Zammuto welcomed Andrew Moreno and Sabina Knight, Esq. to the Board and opened the floor to the members for self-introduction; during which time, they provided additional background commentary that had not been included in the Board packet.

4. DCA Update – Christopher Castrillo, Deputy Director, Board & Bureau Services

Christopher Castrillo, Deputy Director, Board & Bureau Services, introduced himself as he was newly appointed to the position under the governance of Dean Grafilo. He explained that the position previously held by Christine Lally had now been separated into three (3) positions to better assist all boards and bureaus under the Department of Consumer Affairs (DCA). Mr. Castrillo will be accompanied by Karen Nelson and Patrick Lee on October 30th when they assume their appointment as Assistant Deputy Directors of Board & Bureau Services.

Deputy Director Castrillo, announced that DCA had also appointed Chris Schultz as Chief Deputy Director of DCA and Natalie Daniel as Deputy Director of Administration who will oversee DCA's Office of Human Resources, Business Services, and Fiscal Operations. Both will commence their appointments on October 30th.

Mr. Castrillo addressed the 2nd director's quarterly meeting that was held in September and noted that DCA will continue to hold its annual board president meeting to ensure lines of communication remain open and allow for board presidents to provide feedback on issues that they feel need to be addressed within the department.

Mr. Castrillo noted that DCA released a new license verification database for consumers on the BreEZe website with the key focus being the user experience performance, flow, and functionality. The link for the enhanced BreEZe verification database is <https://search.dca.ca.gov/>

The Future Leadership Development Training program was officially launched in May 2017, and recently a kick off meeting was held with program participants and mentors on August 28, 2017. The next meeting for the Future Leadership Development Training program will be held on October 24, 2017 and will feature guest speaker Senator Jerry Hill. The program's goal is to expand on the department's current leadership academy and assist in the development of the best and brightest among the department's boards and bureaus. The program will include mentoring, customized leadership and training, and project management.

The department has established a pro rata workshop with DCA and board and bureau Executives to discuss potential improvements on how DCA communicates on future

developments. The work group held its first meeting on August 27th, and the second workshop is scheduled to be held on October 31st. The department will also hold a pro rata open house on November 14th.

Budget Report - Mr. Ito provided the Board with an updated analysis of the Board's current budget and gave an in-depth explanation of the budget report and projected expenditures.

Dr. Zammuto inquired on the general expenses line and how the budgeted amount is determined and inquired on the funds needed to assist in Board staff relocation. He was informed by Mr. Ito that the Fiscal department usually performs bottom line budgeting meaning that the main concern is to ensure that the Board does not overspend more than what was allotted but stated that he could work alongside Mrs. Burton later to complete a budget realignment to ensure that the Board would have enough funds to suffice. Regarding the relocation funds, the Board requests an Architectural Revolving Fund (ARF) to build a relocation fund line into the budget to ensure that the necessary funds needed to move are available.

5. Administrative Hearing(s)

10:30 a.m.

- Sandra Sands-Solgi, D.O. (20A 11259)– Petition for Early Termination of Probation
- Huongdu Ly, D.O. (20A 11259) – Petition for Early Termination of Probation

The Office of Administrative Hearing (OAH) Administrative Law Judge (ALJ) Heather M. Rowan conducted the above hearings.

6. Closed Session

The Board met in closed session to deliberate on the Petitions for Early Termination of Probation of the licensees listed above pursuant to Government Code section 11126(c)(3).

7. Review and Approval of Minutes

- **Motion to approve the January 20, 2017 Board meeting minutes with no corrections. Motion** – Dr. Lally, **Second** – Ms. Mercado
- Roll Call Vote was taken

- **Aye** – Dr. Jensen, Dr. Lally, Ms. Mercado, Mr. Moreno, Mrs. Williams, Dr. Zammuto
- **Nay** – None
- **Abstention** – None
- **Absent** – Mrs. Blair, Dr. Buhari
- Motion carried to approve minutes with no corrections.

- **Motion to approve the May 18, 2017 Board meeting minutes with no corrections. Motion** – Dr. Lally, **Second** – Dr. Jensen
- Roll Call Vote was taken
 - **Aye** – Dr. Jensen, Dr. Lally, Ms. Mercado, Mr. Moreno, Mrs. Williams, Dr. Zammuto
 - **Nay** – None
 - **Abstention** – None
 - **Absent** – Mrs. Blair, Dr. Buhari
- Motion carried to approve minutes with no corrections.

- **Motion to approve the June 28, 2017 Teleconference minutes with no corrections. Motion** – Dr. Lally, **Second** – Dr. Jensen
- Roll Call Vote was taken
 - **Aye** – Dr. Jensen, Dr. Lally, Ms. Mercado, Mr. Moreno, Mrs. Williams, Dr. Zammuto
 - **Nay** – None
 - **Abstention** – None
 - **Absent** – Mrs. Blair, Dr. Buhari
- Motion carried to approve minutes with no corrections.

8. President's Report

Dr. Zammuto had nothing to report and decided to defer all comments for discussion of SB 798.

9. Legislation

SB 798: Healing arts: boards (Sunset Bill)

SB 798 was chaptered on October 13, 2017, extending both the legislative review and sunset of the Osteopathic Medical Board of California (OMBC) and Medical Board of California through January 1, 2022. Additionally, at the Board's request, SB 798

modified the CME review cycle of the OMBC from a 3-year cycle to a 2-year cycle which will become effective January 1, 2018. The bill also granted OMBC statutory authority to receive from a local/state agency certified documents for arrests or convictions; probations; and/ or all related documentation needed to complete a licensee investigation, which amended Business and Professions Code (BPC) Section 144.5. SB 798 also included numerous changes to the Medical Practice Act including changes to the postgraduate training requirements for licensure applicants, however it has been delayed until January 1, 2020.

During the May OMBC Board meeting the Board discussed at length and opposed implementation of the postgraduate training requirements and requested that Board staff contact Senator Hill regarding the changes and requesting to also be excluded from the requirement. OMBC executive staff, Board President Dr. Zammuto, and Vice President Dr. Lally attended a meeting on June 30, 2017, to address their opposition to the verbiage with Senator Hill's consultants and members of MBC staff. The Board addressed not only their concerns but noted that the language pertained only to the MBC as the OMBC does not license foreign graduates. Additionally, they noted that moonlighting was a common practice among those physicians entering the profession and would allow for them to obtain an income while also engaged in a training program.

OMBC noted that there are only 2 states currently that have legislatively implemented a 36-month postgraduate training requirement similar to the one presented and included that the Federation of State Medical Boards also felt that it was premature to recommend completion of an American Osteopathic Association (AOA) or Accreditation Council for Graduate Medical Education (ACGME) residency as a requirement for licensure. The bill was forwarded on to the Governor without addressing the concerns of the Board and was subsequently chaptered on October 13, 2017. It has been estimated that the Board will need \$80,000 to amend the BreEZe database to accommodate the legislative changes and will need to recruit additional staff in enforcement and licensing to accommodate the workload increase. Because the estimated implementation of the bill is not until 2020, the Board will submit a Budget Change Proposal (BCP) request for the 18/19 fiscal year to request the additional staff as necessary. Lastly, Senator Hill's request for probation reporting by licensees of health professions did not move forward and was pulled from SB 798 prior to its chaptering.

Kathleen Creason, Executive Director of the Osteopathic Physicians & Surgeons of California (OPSC), reported that OPSC representatives had met with the legislative consultant about the residency provisions in SB 798. She reported that the consultant felt the language in the bill should not be changed, as any concerns could be addressed prior to the provision's 2020 implementation date. Ms. Creason reported that OPSC had established a task force to address this issue and would be discussing whether it would be appropriate to introduce legislation in the coming year.

10. MAXIMUS Presentation: *Substance Use Disorder and the Impaired Professional* – Anita Mireles, R.N., B.S.N,

Anita Mireles, R.N., B.S.N., MAXIMUS, presented the Board with a Power Point Presentation regarding the process and procedures of the diversion program and answered all questions from the Board related to the diversion program.

11. Regulations

- Diversion Evaluation Committee Duties and Responsibilities: Title 16, California Code of Regulations, section 1661.2
- Disciplinary Guidelines: Title 16, California Code of Regulations, section 1663

Mrs. Burton advised that this was simply a place holder in the event that the Board received any commentary during the 15-day public comment period and hearing held on October 13th for the proposed disciplinary guidelines language and regulatory packet. However, no public comments were received, therefore the Board is preparing the package for OAL submission and review.

12. Future Meeting Dates

- Thursday, January 18, 2018 @ 10:00 am - Sacramento, CA
- Thursday, May 17, 2018 @ 10:00 am - Pomona, CA
- Thursday, September 27, 2018 @ 10:00 am – San Diego, CA
- Thursday, January 17, 2019 @ 10:00 am - Sacramento, CA

13. Agenda Items for Next Board Meeting

- SB 798 – Updates (*Dr. Zammuto*)
- CME Audit – Updates (*Dr. Jensen*)
- CMA Medical Marijuana Bureau (*Ms. Mercado*)
- Telehealth
- Department of Investigation Funding (*Dr. Zammuto*)

14. Executive Director's Report

Angie Burton updated the Board on licensing statistics, staffing, Board budget activity, and diversion program statistics.

Dr. Lally inquired on the status of the implementation of random CME audits and was informed by Mrs. Burton that the Board could not move forward with any changes until the CME cycle changes were implemented as requested in SB 798. The regulatory

language has been drafted and approved, however the Board is waiting on the legislative changes to take effect.

Enforcement/ Discipline - Dr. Zammuto inquired if the Board knew what factors would cause a field investigator to go undercover on a case; and inquired whether investigations are initiated upon board receipt of the case or after some review has been completed by the board's enforcement staff. He was advised by Mr. Sparks that it would depend on the type of case received. If the physician is an over-prescriber who is potentially running a "pill mill" that might prompt the field investigator to go undercover. However, field investigations are expensive, therefore the office would need to be certain that an investigation is necessary to ensure public safety. Another option available to the Board is the CURES database. By running a report of a physician's prescribing habits, the office is able to determine from the report whether or not a physician has in fact been over prescribing medication.

Dr. Zammuto made note that this was a topic of discussion at the Federation of State Medical Boards (FSMB) conference that he recently attended in April, and it was found that most states were not proactively investigating physicians for overprescribing practices. Mrs. Burton noted that the Board may not arbitrarily run a CURES report on a physician and may only do so once information has been received in the office alleging a physician's potential over prescribing.

Dr. Zammuto asked what was necessary to obtain additional financial resources to complete investigations. He was advised by Mrs. Burton that the Board had submitted a BCP to request additional money to complete investigations, however the BCP was subsequently rejected. The Board's request for an increase in the expert witness fee will be moving forward, however at the end of the year the Board will be meeting with the budget's unit in addition to Division of Investigation to review the Board's options regarding investigations.

15. Adjournment

There being no further business, the meeting was adjourned at 2:37 p.m.