

AGENDA ITEM 7

REVIEW AND VOTE ON APPROVAL OF THE APRIL 13, 2023, BOARD MEETING MINUTES.



***** DRAFT *****

TELECONFERENCE SPECIAL BOARD MEETING MINUTES

Thursday, April 13, 2023

Board Members Present:

Denise Miller – President
 Beata Morcos – Vice President
 Richard Bookwalter – Board Member
 Sharon Pavlovich – Board Member
 Hector Cabrera – Board Member

Board Staff Present:

Heather Martin – Executive Officer
 Jody Quesada – Staff Services Manager I
 Jeanine Orona – Enforcement Analyst
 Rachael Hutchison – Enforcement Analyst

Board Members Absent:

Lynna Do – Secretary

3:00pm - Board Meeting

1. Call to order, roll call, establishment of a quorum.

The meeting was called to order at 3:07 p.m. Board Member Sharon Pavlovich called roll and Board Secretary Lynna Do was absent. A quorum was established.

2. Finding of Emergency to hold Special Meeting.

Pursuant to Government Code Section 11125, the Board must determine whether the delay necessitated by providing notice 10 days prior to a meeting as required by would cause substantial hardship on the body or that immediate action is required to protect the public interest. The Board made the determination that necessity existed to hold the Special Board Meeting.

3. President’s Remarks – Informational only; no Board Action to be taken.

President Denise Miller stated that Assembly Bill (AB) 796 would enact the Athletic Training Practice Act, which would establish, until January 1, 2028, the Athletic Training Commission (ATC) under the California Board of Occupational Therapy (Board). The ATC would exercise licensing, regulatory, disciplinary oversight of athletic trainers and would prohibit a person from practicing as an athletic trainer or using certain titles or terms without being licensed by the board.

AB 796 would define ‘athlete,’ ‘athletic trainer,’ and the practice of athletic training. The bill would specify requirements for licensure and license renewal, require a licensed athletic trainer to practice only under the supervision of a physician and surgeon, and

authorize the ATC committee to deny, suspend, revoke, or discipline a licensee for specified reasons.

Athletic training, as defined, includes services appropriate for the prevention, recognition, assessment, management, treatment, rehabilitation, and reconditioning of injuries and illnesses sustained by an athlete.

President Miller stated that the Board needed to decide if they wished to take a position prior to the April 5, 2023, hearing of the bill by the Assembly Business and Professions Committee. Ms. Miller reminded the Board, that if they chose to take a position on the bill, it could include:

- Support
- Support, if amended
- Oppose, unless amended
- Oppose

The Board discussed the various reasons for supporting or opposing the bill and providing suggested amendments.

Rationale for Supporting the bill:

- According to the California Athletic Trainers' Association, "Athletic trainers are Board certified health care professionals that require a master's level degree for entry.
- In all other states and the District of Columbia, the athletic trainer profession has statutorily outlined education and training standards, a defined scope of practice, state regulatory oversight, and a formal adjudication process.
- Lack of regulation many times impeded the ability of athletic trainers to fully execute their job duties.

Rationale for Opposing the bill:

- Lack of necessity.
- Scope of practice as defined is overly broad.
- The supervision of an athletic trainer is insufficient.
- The ability to diagnose is outside of the education and training of an athletic trainer.

4. Board Member Remarks – Informational only; no Board Action to be taken.

Board Member Richard Bookwalter stated that he was concerned about the athletic trainer scope of practice. He felt that having the Athletic Trainer Committee (ATC) under the Board would make it more difficult to address consumer protection issues.

Mr. Bookwalter expressed the need for further definition of what an athlete is and who an athletic trainer is.

Executive Officer Heather Martin explained that there is no intention of having a financial, administrative, or regulatory impact to the Board.

Board Member Sharon Pavlovich expressed her support for the bill. She noted that in the previous bill, the Athletic Trainer Association indicated that if the athletic trainers came under the Board, that one occupational therapy practitioner would serve as a public member on the ATC, but she did not see that in this iteration. Ms. Pavlovich stated that she was in support of that previous agreement being honored.

President Denise Miller stated that was not specifically clear what the administrative impact would be on the Board.

Executive Officer Heather Martin explained that the administrative functions would most likely be identified either by the Assembly Business and Professions Committee or when the bill goes to the Assembly Appropriations Committee because of the fiscal impact. Ms. Martin confirmed that, in speaking with the Author's office, there will be no comingling of funds or shared staff.

Vice President Beata Morcos commented that she did not like the fact that the fact that if there would be no administrative impact, that it was not in writing. She elaborated that if Ms. Martin was certain there would be no impact to the Board, then she could support of the bill.

President Denise Miller agreed with Vice President Morcos that she would prefer to see in writing that the ATC would have no impact on the Board

Board Member Richard Bookwalter expressed his confusion as to why the athletic trainers were asking to become a committee under the Board rather than the Physical Therapy or Medical Board with whom their profession has closer ties.

President Denise Miller reiterated that the Board had to come up with language to be heard at the hearing or decide as a Board to not weigh in.

Board Member Richard Bookwalter recalled a discussion regarding the ATC having a separate Executive Officer. Mr. Bookwalter commented that the language would make it a Board under a Board, and he felt discomfort with that structure. He supported licensing athletic trainers and having the consumer protection, but wondered why the athletic trainers could not be a separate Board?

5. Public Comment for Items Not on the Agenda.

Public Comment #1:

David Gonzalez, the legislative advocate for the California Athletic Trainers Association (CATA) thanked the Board for their time. Mr. Gonzalez noted that they are committed to working with the Board. CATA wanted to ensure that this is something that the Board could implement and was not meant to burden on the Board. Mr. Gonzalez stated to Board Member Pavlovich that CATA is open to having an occupational therapist on the Board. Mr. Gonzalez believed that forming an ad hoc committee would be a great way

to convene and share ideas. CATA did not want to put something on the Governor's desk that the Board is not comfortable with.

Board Member Hector Cabrera agreed that he would like to see the impact the ATC would have on the Board outlined in a letter. Mr. Cabrera also agreed with Mr. Bookwalter that the ATC would fall better under the Medical Board.

Mr. Gonzalez responded to Board Member Cabrera's comment by confirming that they would get a letter to the Board regarding impact.

Public Comment #2:

Lyndsey Gullahorn introduced herself on behalf of the Occupational Therapy Association of California (OTAC), and advised they oppose AB 796. She elaborated that while OTAC has supported some prior versions of the bills, it was those bills that created title protection for athletic trainers. OTAC did not think the Board was the appropriate place for the athletic trainers.

Public Comment #3:

Nick Harvey introduced himself as the Governmental Affairs Chair at the California Athletic Trainers Association. Mr. Harvey noted that they are very excited to be the sponsor of AB 796 and their primary concern is public protection. The CATA goal was to ensure that the public is protected from people who are posing as athletic trainers.

6. Discussion and possible position on Assembly Bill 796 (Weber) Athletic Trainers.

President Denise Miller asked the Board Members where they stood in support of the bill.

President Denise Miller explained that the Board was not going to receive a letter from CATA regarding the impact to the board before Executive Officer Heather Martin needed to submit a comment with the Board's current position.

Executive Officer Heather Martin suggested that instead of requesting a letter from CATA, that the Board ask that language be added to include that an occupational therapist serve on the committee and a reassurance that there would not be an impact to the Board. Ms. Martin stated that the Board could draft a letter of support, if amended and frame the language for the amendments.

Board Member Sharon Pavlovich explained that she was comfortable with supporting the bill and did not think there is a hidden agenda.

Board Member Richard Bookwalter stated that he would oppose, unless amended. He requested that the scope of practice be narrowed.

President Denise Miller stated that she felt the language was too broad from a consistency standpoint. Also, if the Board were to support, if amended, she would need

language that identified the scope of the athlete. She requested a comment outlining that there would be no financial impact to the Board.

Board Member Hector Cabrera noted that he will support the bill, if amended.

Vice President Beata Morcos stated she could also support the bill, if amended.

Board Member Richard Bookwalter expressed his need for clarification on the role of an athletic trainer.

Board Member Sharon Pavlovich noted that she felt that it was very clear in terms of who the athletic trainer's patient population would be.

Board Member Richard Bookwalter stated that he would most likely oppose.

President Denise Miller noted that if there were an hoc committee held after the hearing, that the Board would like to have a role in helping them on their scope.

Nick Harvey noted that athletic trainers work in a lot of different settings including military bases. They also work in performing arts areas such as Disneyland and some industrial settings such as Amazon. This means that listing the specifics may be cumbersome, but they are willing to work with the author's office.

- Board Member Sharon Pavlovich moved to support AB 796 if amended to specify the scope and practice, clearly the define the patient population, and ensure there would be no fiscal impact to the Board and consideration of including an occupational therapist on their committee, and directed Board staff to write a letter on their behalf, supporting AB 796, if amended as specified.
- Vice President Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Board Member Votes

| | |
|---------------------|-----|
| Richard Bookwalter: | No |
| Hector Cabrera: | Yes |
| Sharon Pavlovich: | Yes |
| Beata Morcos: | Yes |
| Denise Miller: | Yes |

The motion carried.

Meeting adjournment.

The Board Meeting adjourned at 5:30 p.m.