

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: January 29, 2025
ATTENTION: Members, Medical Board of California
SUBJECT: Discussion and Possible Action on Updates to the
Board Member Administrative Procedure Manual
STAFF CONTACT: Kerrie Webb, Attorney III

REQUESTED ACTION

Review the proposed updates to the Board Member Administrative Procedure Manual (Manual) and approve a motion to adopt the updated Manual and authorize staff to make any non-substantive changes necessary to finalize the Manual.

BACKGROUND AND ANALYSIS

The Manual was last substantively updated in 2013, and non-substantive changes were made in 2020. Most of the proposed changes are technical and non-substantive, however, updates to the Manual are necessary to clarify the Board's processes and for consistency with the law. Once approved, Board staff will update the Table of Contents and page numbers, as necessary, and make any additional non-substantive changes required to finalize the Manual.

**State of California
State and Consumer Services Agency**

MEDICAL BOARD OF CALIFORNIA

**Board Member Administrative
Procedure Manual**



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Board Member Administrative Procedure Manual

Updates to Manual—August 2020

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Chapter 1. Introduction

Overview The Medical Board of California (~~MBC~~Board) was created by the California Legislature in 1876. Today the ~~MBC~~Board is one of the boards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), part of the ~~State~~California Business, ~~and~~ Consumer Services, ~~and~~ Housing Agency under the aegis of the Governor. The Department is responsible for consumer protection and representation through the regulation of certain licensed professions and the provision of consumer services. While the DCA provides oversight in various areas including, but not limited to, budget change proposals, regulations, and contracts, and also provides support services, ~~MBC~~the Board has policy autonomy and sets its own policies ~~and~~ procedures, and initiates its own regulations. (See Business and Professions Code sections 108, 109(a), and 2018.)

The ~~MBC~~Board is presently comprised of 15 ~~M~~m members. By law, seven are public ~~M~~m members, and eight are physicians. The Senate Rules Committee and the Speaker of the Assembly each appoint one public member. Board ~~M~~m members may serve two full four-year terms. Board ~~M~~m members fill non-salaried positions, and are paid \$100 per day for each day worked and are reimbursed travel expenses.

This procedure manual is provided to Board ~~M~~m members as a ready reference of important laws, regulations, and Board policies, to guide the actions of Board ~~M~~m members and ensure Board effectiveness and efficiency.

Due notice of each meeting and the time and place thereof shall be given each member in the manner provided by law.

Definitions	B&P	Business and Professions Code
	SAM	State Administrative Manual
	President	Where the term “ P resident” is used in this manual, it includes “ his or her their designee”

**General Rules
of Conduct**

Board Mmembers shall not speak to interested parties (such as vendors, media, lobbyists, legislators, or other governmental entities) on behalf of the Board or act for the Board without proper authorization.

Board Mmembers shall maintain the confidentiality of confidential documents and information.

Board Mmembers shall commit time, actively participate in Board activities, and prepare for Board meetings, which includes reading Board meeting packets materials and all required legal documents.

Board Mmembers shall respect and recognize the equal role and responsibilities of all Board Members, whether public or licensee.

Board Mmembers shall act fairly and in a nonpartisan, impartial, and unbiased manner.

Board Mmembers shall treat all applicants and licensees in a fair and impartial manner.

Board Mmembers' actions shall uphold the Board's primary mission – protection of the public.

Board Mmembers shall not use their positions on the Board for political, personal, familial, or financial gain.

Chapter 2. Board Meeting Procedures

Frequency of Meetings *(B&P Code sections 2013, 2014)*

The Board shall meet at least once each calendar quarter in various parts of the state for the purpose of transacting such business as may properly come before it.

Special meetings of the Board may be held at such times the Board deems necessary.

Four ~~M~~m members of a panel of the Board shall constitute a quorum for the transaction of business at any meeting of the panel.

Eight ~~M~~m members shall constitute a quorum for the transaction of business at any Board meeting.

Due notice of each meeting and the time and place thereof shall be given each member in the manner provided by the law.

Board Member Attendance at Board Meetings *(B&P Code sections 106, 2011)*

Board ~~M~~m members shall attend each meeting of the Board. If a member is unable to attend, ~~he or she~~they must contact the Board ~~P~~president and ask to be excused from the meeting for a specific reason. The ~~Governor appointing authority~~ has the power to remove from office any member ~~they~~ appointed ~~by him themselves~~for, among other things, continued neglect of duties, which may include unexcused absences from meetings.

Board ~~M~~m members shall attend the entire meeting and allow sufficient time to conduct all Board business at each meeting.

Public Attendance at Board Meetings *(Government Code section 11120 et. seq.)*

Meetings are subject to all provisions of the Bagley-Keene Open Meetings Act. This act governs meetings of state regulatory boards and meetings of committees of those boards where the committee consists of more than two ~~M~~m members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included on the agenda.

If the agenda contains matters that are appropriate for closed session, the agenda must cite the particular statutory section and subdivision authorizing the closed session.

Quorum for Full Board Meetings *(B&P Code section 2013)*

Eight of the ~~M~~m members of the Board constitute a quorum of the Board for the transaction of business at full Board meetings. The concurrence of a majority of those ~~M~~m members of the Board present ~~and voting~~ at a duly noticed meeting at which a quorum is present shall be necessary to constitute an act or decision of the Board.

Agenda Items

(Board Policy)

Any Board ~~M~~member may submit items for a meeting agenda to the ~~E~~xecutive ~~D~~irector not fewer than 30 days prior to the meeting with the approval of the Board ~~P~~resident or ~~C~~hair of the ~~C~~ommittee.

Notice of Meetings

(Government Code section 11120 et seq.)

In accordance with the Open Meetings Act, meeting notices (including agendas for Board, ~~C~~ommittee, or ~~P~~panel meetings) shall be sent to persons on the Board’s mailing list at least 10 calendar days in advance. The notice shall include the name, work address, and work telephone number of a staff person who can provide further information prior to the meeting.

Notice of Meetings to be Posted on the Internet

(Government Code section 11125 et seq.)

Notice shall be given and made available on the Internet at least 10 days in advance of the meeting and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

Record of Meetings

(B&P Code section 2017)

The Board and each ~~C~~ommittee or ~~P~~panel shall keep an official record of ~~all his or her~~their proceedings. The minutes are a summary, not a transcript, of each ~~Board or Committee~~ meeting. They shall be prepared by staff and submitted to ~~M~~embers for review before the next meeting. Minutes for open meetings shall be approved at the next scheduled meeting of the body of the Board, Committee, or Panel. When approved, the minutes shall serve as the official record of the meeting.

~~Tape-Recording/Web Casting~~

(Board Policy)

The meeting may be ~~tapedigitally~~ recorded if determined necessary for staff purposes. ~~Tape recordings will be disposed of upon approval of the minutes in accordance with record retention schedules.~~ The meeting will be Web cast, ~~as DCA staff is available,~~ including the ~~C~~ommittees of the Board. The Web cast will be posted-made available on the Board’s Web site within two weeks and kept for 10 years or more.

Meeting Rules

*(Government Code section 11120 et seq.:
(Board Policy)*

The Board will ~~use Robert’s Rules of Order, to the extent that it does not conflict with state law (e.g. follow the Bagley-Keene Open Meeting Act), as a guide~~ when conducting its meetings.

Process for Voting on Motions

- An item is presented, and questions are answered.
- Public comment may be requested before or after a motion is made and is requested once per agenda item.
- A motion is made and seconded.
- Further discussion may occur between Board members.

- A Board member may request a motion be amended (friendly amendment).
- If the first member agrees to the amendment, and the amended motion is seconded, then it may proceed to a vote.
- If the first member withdraws the original motion, then a new motion can be made and seconded, and may proceed to a vote.
- If the first member does not agree to amend or withdraw the motion, and the second is not withdrawn, then it may proceed to a vote. If it fails, then a new motion may be made.

Public Comment

(Government Code sections 11120 et seq.: and 11430.10 et seq.: Board Policy)

Due to the need for the Board to maintain fairness and neutrality when performing their adjudicative function, the Board shall not receive any substantive information from a member of the public regarding any matter that is currently under or subject to investigation or involves a pending criminal or administrative action.

1. If, during a Board meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information, and the person shall be instructed to refrain from making such comments.
2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct, involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:
 - a. Where the allegation involves errors of procedure or protocol, the Board may designate either its ~~E~~xecutive ~~D~~irector or a Board employee to review whether the proper procedure or protocol was followed and to report back to the Board, as appropriate.
 - b. Where the allegation involves significant ~~staff~~ misconduct against the executive director, the Board may designate one of its Members to review the allegation and to report back to the Board, as appropriate. Allegation against other Board staff shall be referred to the executive director to review and report back to the Board, as appropriate.
3. The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting.

(Government Code section 11120 et seq.)

4. ~~Persons wishing to address the Board or a Committee of the Board shall be requested to complete a speaker request slip in order to have an appropriate record of the speaker for the minutes.~~ At the discretion of the Board ~~P~~resident or ~~C~~hair of the ~~C~~ommittee, speakers may be limited in the amount of time to present to give adequate time to everyone who wants to speak. In the event the number of people wishing to address the Board exceeds the allotted time, the Board ~~P~~resident or ~~C~~hair of the ~~C~~ommittee may limit each speaker to a statement of his/herttheir name, organization, and whether they support or do not support the proposed action.

Written Comment
(Board Policy)

Prior to a Board meeting, an individual or group may submit materials related to a meeting agenda item to the ~~E~~xecutive ~~D~~irector and request that the material be provided to the Board or ~~C~~ommittee ~~M~~embers. Upon receipt of such a request, the ~~E~~xecutive ~~D~~irector will verify that the materials are related to an open session agenda item (no materials will be distributed regarding complaints, investigations, -contested cases, litigation, or other matters that may be properly discussed in closed session) and then forward the materials to the Board or ~~C~~ommittee ~~M~~embers. When forwarding the applicable materials to the Board members, the ~~E~~xecutive ~~D~~irector may include information regarding existing law, regulation, or past Board action relevant to the issue presented. The written communication must be provided at least four business days prior to the meeting in order to ensure delivery to the Board ~~M~~embers.

NOTE: This section is not applicable to a formal regulatory hearing.

Chapter 3. Travel & Salary Policies & Procedures

Travel Approval
(DCA Memorandum 96-01)

The Board ~~P~~resident’s approval is required for all Board ~~M~~members for travel, except for travel to regularly scheduled Board and ~~C~~committee meetings to which the Board ~~M~~member is assigned.

Travel Arrangements
(Board Policy)

~~For approved travel, Board M~~members may make their own travel arrangements through the State’s travel agency -but are encouraged to coordinate with the ~~E~~xecutive ~~D~~irector’s ~~designee~~Administrative Assistant on lodging accommodations.

Out-of-State Travel
(SAM section 700 et seq.)

~~For out-of-state travel, Board Members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses.~~ Out-of-state travel for all persons representing the State of California is controlled by and approved by the Governor’s Office.

Travel Claims
(SAM section 700 et seq. and DCA Memorandum 96-01)

Rules governing reimbursement of travel expenses for Board ~~M~~members are the same as for management-level state staff. All expenses shall be claimed through CalAters. Additional justification forms may be required to be submitted to the ~~on the appropriate travel expense claim forms. The E~~xecutive ~~D~~irector’s ~~Administrative Assistant~~~~designee. maintains these forms and completes them as needed.~~ Board Members should submit their travel expense ~~forms-claims~~ immediately after returning from a trip and no later than two weeks following the trip.

For the expenses to be reimbursed, Board ~~M~~members shall follow the procedures contained in DCA Departmental Memoranda, which are periodically disseminated by the ~~E~~xecutive ~~D~~irector and are provided to Board ~~M~~members.

Salary Per Diem
(B&P Code section 103; Board Policy)

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board ~~M~~members is regulated by B&P Code Section 103.

In relevant part, this section provides for the payment of salary per diem for Board ~~M~~members “for each day actually spent in the discharge of official duties,” and provides that the Board ~~M~~member “shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.”

Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board ~~M~~members, except for attendance at an official Board, ~~C~~committee, or ~~P~~panel meeting, unless a substantial official service is performed by the Board ~~M~~member, and the travel and service are approved in advance by the Board president. ~~Attendance at gatherings, events, hearings, conferences, or meetings other than official Board, Committee, or Panel meetings, in which a substantial official service is performed, shall be approved in advance by the Board President.~~ The ~~E~~xecutive ~~D~~irector shall be notified of the event and approval shall be obtained from the Board ~~P~~resident prior to Board ~~M~~member's attendance.
2. The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Board, ~~C~~committee, or ~~P~~panel meeting to the conclusion of that meeting.

For Board-specified work, Board ~~M~~members are eligible to claim the per diem will be compensated for actual time spent performing work authorized by the Board ~~P~~resident. That work includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences. It includes preparation time for Board, ~~C~~committee, or ~~P~~panel meetings.

Chapter 4. Selection of Officers & Committees

Officers of the Board

(B&P Code Section 2012)

The Board shall select a ~~P~~resident, ~~V~~ice ~~P~~resident, and ~~S~~ecretary from its ~~M~~embers.

Election of Officers

(Board Policy)

The Board shall elect the officers once a year, unless an additional election is necessary to fill a current or pending vacancy at the first meeting of the fiscal year. Officers shall serve a term of one year beginning at the conclusion of that day's business~~the next meeting day,~~ unless a different start date or time is determined by the Board. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board ~~M~~ember is running per office. An officer may be re-elected and serve for more than one term.

Panel Members

(B&P Code section 2008)

A Panel of the Board shall at no time be composed of less than four ~~M~~embers and the number of public ~~M~~embers assigned shall not exceed the number of licensed physician and surgeon ~~M~~embers assigned to the Panel. The Board usually is comprised of two panels, however, if there is an insufficient number of ~~M~~embers, there may only be one Panel.

Election of Panel Members

(B&P Code section 2008)

Each Panel shall annually, at the last meeting of the calendar year, elect a ~~E~~chair and a ~~V~~ice ~~E~~chair.

Officer Vacancies

(Board Policy)

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the President becomes vacant, the ~~V~~ice ~~P~~resident shall assume the office of the ~~P~~resident. Elected officers then shall serve the remainder of the term.

Committee/Task Force Appointments

(Board Policy)

The Board ~~P~~resident ~~shall may~~ establish ~~E~~committees and task forces, whether standing or special, as ~~he or shethey~~ deems necessary. The composition of the ~~E~~committees and task forces and the appointment of the ~~M~~embers shall be determined by the Board ~~P~~resident, who may in consultation consult with the ~~V~~ice ~~P~~resident, ~~Secretary~~, and the ~~E~~xecutive ~~D~~irector. Committees and task forces may include the appointment of non-Board ~~M~~embers.

Attendance at Committee Meetings

(Government Code section 11120 et seq.)

Board ~~M~~embers ~~are encouraged to may~~ attend a meeting of a ~~E~~committee of which ~~he or shethey are is~~ not a member. Board ~~M~~embers who are not ~~M~~embers of the ~~E~~committee that is meeting ~~cannot shall not sit at the dais nor~~ vote during the ~~E~~committee meeting and may participate only as observers if a majority of the Board is present at a ~~E~~committee meeting.

Duties of the Officers

The following matrix delineates the duties of the Board officers, ~~E~~committee ~~E~~chairs, and ~~P~~panel officers.

Roles of Board Officers/Committee Chairs/Panel Officers

- | | |
|--|--|
| President | <ul style="list-style-type: none"> • Spokesperson for the Medical Board (including but not limited to) – may attend legislative hearings and testify on behalf of the Board, may attend meetings with stakeholders and Legislators on behalf of Board, may talk to the media on behalf of the Board, and signs letters on behalf of the Board • Meets and communicates with the Executive Director on a regular basis • Communicates with other Board Members for Board business • Authors a president’s message in every quarterly newsletter • Approves Board Meeting agendas • Chairs and facilitates Board Meetings • Chairs the Executive Committee, <u>if applicable</u> • Signs specified full board enforcement approval orders • Signs the minutes for each of the Board’s quarterly Board Mmeetings • Represents the Board at Federation of State Medical Boards’ meetings and other such meetings |
| Vice President | <ul style="list-style-type: none"> • Acts as president <u>Is the back-up for the duties above</u> in the President’s absence. • Is a member of <u>the</u> Executive Committee, <u>if applicable</u> |
| Secretary | <ul style="list-style-type: none"> • Signs the minutes for each of the Board’s quarterly Board Meetings. <u>The minutes may reflect that the signature is on file.</u> • Is a member of <u>the</u> Executive Committee, <u>if applicable</u> |
| Past President | <ul style="list-style-type: none"> • Is responsible for mentoring and imparting knowledge to the new Board President • May attend meetings and legislative hearings to provide historical background information, <u>when requested by the Board president as needed</u> • Is a member of <u>the</u> Executive Committee, <u>if applicable</u> |
| Committee
Chair<u>Officers</u> | <ul style="list-style-type: none"> • Chair - Approves the Committee Agendas <u>and</u> • Chairs and facilitates Committee Mmeetings • Vice chair – <u>Acts as chair in the chair’s absence</u> |
| Panel Officers | <ul style="list-style-type: none"> • Chair – Chairs and facilitates Panel Meetings, <u>and signs orders for panel decisions</u> • Chair – <u>Signs orders for Panel decisions</u> • Vice Chair – Acts as Chair <u>when in the Chair’s absence is absent</u> |

Chapter 5. Board Administration & Staff

Board Administration

(DCA Reference Manual)

Board **M**embers should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board **M**embers to become involved in the details of program delivery. Strategies for the day-to-day management of programs and staff shall be the responsibility of the **E**xecutive **D**irector. Board **M**embers should not interfere with day-to-day operations, which are under the authority of the **E**xecutive **D**irector.

Strategic Planning

The Board will conduct periodic strategic planning sessions.

Executive Director Evaluation

(Board Policy)

Board **M**embers shall evaluate the performance of the **E**xecutive **D**irector on an annual basis.

Board Staff

(DCA Reference Manual)

Employees of the Board, with the exception of the **E**xecutive **D**irector, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the **E**xecutive **D**irector. Board **M**embers shall not intervene or become involved in specific day-to-day personnel transactions.

Business Cards

Business cards will be provided to each Board **M**ember with the Board's name, address, telephone and fax number, and Web site address.

Chapter 6. Other Policies & Procedures

Board Member Disciplinary Actions

(Board Policy)

A member may be censured by the Board if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner.

The ~~P~~resident of the Board shall sit as chair of the hearing unless the censure involves the ~~P~~resident's own actions, in which case the ~~V~~ice ~~P~~resident of the Board shall sit as ~~P~~resident. In accordance with the Open Meeting Act, the censure hearing shall be conducted in open session.

Removal of Board Members

(B&P Code sections 106 & 2011)

The ~~G~~overnor ~~a~~ppointing authority has the power to remove from office, at any time, any member ~~of any Board that they~~ appointed ~~by him or her~~ ~~themselves~~ for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct.

Resignation of Board Members

(Government Code section 1750)

In the event that it becomes necessary for a Board ~~M~~ember to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter also shall be sent to the director of the Department, the Board ~~P~~resident, and the ~~E~~xecutive ~~D~~irector.

Conflict of Interest

(Government Code section 87100)

No Board ~~M~~ember may make, participate in making, or in any way attempt to use ~~his or her~~ ~~their~~ official position to influence a governmental decision in which ~~he or she~~ ~~they~~ knows or ~~has~~ reason to know ~~he or she~~ ~~they~~ ~~have~~ ~~has~~ a financial interest. Any Board ~~M~~ember who has a financial interest shall disqualify ~~himself or herself~~ ~~themselves~~ from making or attempting to use ~~his or her~~ ~~their~~ official position to influence the decision. Any Board ~~M~~ember who feels ~~he or she~~ ~~they~~ ~~are~~ ~~is~~ entering into a situation where there is a potential for a conflict of interest should immediately consult the ~~E~~xecutive ~~D~~irector or the Board's legal counsel.

Board ~~M~~embers ~~should~~ ~~shall~~ refrain from attempting to influence staff regarding applications for licensure or potential disciplinary matters.

Gifts from Candidates

(DCA Incompatible Work Activities Policy; Board Policy)

Gifts of any kind to Board ~~M~~embers from candidates for licensure with the Board shall not be permitted.

Request for Records Access
(Board Policy)

No Board ~~M~~member may access the file of a licensee or candidate without the ~~E~~xecutive ~~D~~irector’s knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the ~~MBC’s Board’s~~ office without ~~E~~xecutive ~~D~~irector authorization.

Meetings with the Public and Interested Parties

(Board Policy)

Interested parties may request to meet with a Board ~~M~~member on a matter or matters under the Board’s jurisdiction. Members must remember that the power of the Board is vested in the Board itself and not with any individual Board ~~M~~member. For that reason, Board ~~M~~members are cautioned to not express their personal opinions as a Board policy or position or represent that the Board has taken a position on a particular issue when it has not. Board members are strongly encouraged to notify the executive director as soon as possible when they receive a request to communicate with an interested party on a matter within the Board’s jurisdiction. It is strongly suggested that Board Members disclose their attendance at any meeting of this type at the next scheduled Board meeting as identified in the next section, “Communication with Interested Parties”.

Communications with Interested Parties

(Board Policy)

At each Board meeting, Board members shall disclose communications with interested parties relevant to any matter on the current agenda when requested by the president or during an agenda item for Communications with Interested Parties. Board Members are required to disclose at Board Meetings all discussions and communications with interested parties regarding any item pending or likely to be pending before the Board. The Board minutes shall reflect the items disclosed by the Board ~~M~~members. ~~All agendas will include, as a regular item, a disclosure agenda item where each Member relays any relevant conversations with interested parties.~~

Media Inquiries

(Board Policy)

If a Board ~~M~~member receives a media call, the ~~M~~member should promptly refer the caller to the Board’s ~~P~~ublic ~~I~~nformation ~~O~~fficer who is employed to interface with all types of media on any type of inquiry. Members are recommended to make this referral as the power of the Board is vested in the Board itself and not with any individual Board ~~M~~member. Expressing a personal opinion can be seen as a Board policy or position and may be represented as the Board has taken a position on a particular issue when it has not.

A Board ~~M~~member who receives a call should politely thank the caller for the call, but and state that it is the Board’s policy to refer all callers to the ~~P~~ublic ~~I~~nformation ~~O~~fficer. The Board ~~M~~member should then send an email to immediately inform the ~~E~~xecutive ~~D~~irector indicating that they received a media call and relay any information supplied by the caller.

Service of Lawsuits

(Board Policy)

The Board ~~M~~members may receive service of a lawsuit against themselves and the Board pertaining to a certain issue (e.g. a disciplinary matter, a complaint, a legislative matter, etc.). To prevent a confrontation, the Board ~~M~~member should accept service. Upon receipt, the Board ~~M~~member should notify the ~~E~~xecutive ~~D~~irector of the service and indicate the name of the matter that was served and any other pertinent information. The Board ~~M~~member should then email or mail the entire package that was served on them to the ~~E~~xecutive ~~D~~irector as soon as possible. The Board’s legal counsel will provide instructions to the Board ~~M~~members on what is required of them once service has been made. The Board ~~M~~members may be required to submit a request for representation to the Board to provide to the Attorney General’s Office.

Ex Parte Communications

(Government Code section 11430.10 et seq.)

The Government Code contains provisions prohibiting *ex parte* communications. An “*ex parte*” communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

“While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative or if an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication.”

An applicant who is being formally denied licensure, or a licensee against whom a disciplinary action is being taken, may attempt to directly contact Board ~~M~~members.

If the communication is written, the member should read only enough to determine the nature of the communication. Once they he or she realizes it is from a person against whom an action is pending, they he or she should reseal the documents and send them to the ~~E~~xecutive ~~D~~irector, or forward the email.

If a Board ~~M~~member receives a telephone call is contacted directly by, or on behalf of, from an applicant, or licensee against whom an action is pending, or a complainant on a matter that has not been closed by the Board they he or she should immediately tell the person they he or she cannot speak to them him or her about the matter, refer the person to the executive director, and politely end the conversation. This is necessary to avoid the member having to recuse themselves from participating in a panel meeting to adjudicate the matter or putting the Board’s final decision at risk in a legal action. If the

~~person insists on discussing the case, they he or she should be told that the Board Member will be required to recuse themselves himself or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.~~

If a Board ~~M~~member believes that ~~they he or she has~~have received an unlawful *ex parte* communication, ~~they he or she~~ should contact the Board’s ~~assigned staff~~ attorney or ~~E~~xecutive ~~D~~irector.

Disciplinary/Licensing Decisions

(B&P Code sections 2013 and 2335; Board Policy)

Board members shall vote on disciplinary and licensing proposed decisions and stipulations, as well as on other matters that are sent to panel members, by the due date indicated in the notice from staff.

When a quorum of the panel votes to adopt a proposed decision or stipulation and there are not two holds by the deadline for voting, the matter shall be processed as an adoption. A decision to revoke a license requires at least four votes to adopt.

Board Member Training Requirements

(B&P Code section 453)

Upon initial appointment, Board ~~M~~members will be given an overview of Board operations, policies, and procedures by Board ~~E~~xecutive ~~S~~taff.

(Government Code section 11146)

Every appointed Board ~~M~~member shall, within one year of assuming office, complete a training and orientation program offered by the Department of Consumer Affairs. This is in addition to the Board orientation given by Board staff.

(Government Code section 12950.1)

All Board ~~M~~members are required to file an annual Form 700 statement of economic interest. Members must also complete an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. The Government Code requires completion of this ethics orientation within the first six months of appointment and completion of a refresher every two years thereafter.

(Board Policy)

~~SB 530 (Chapter 722, Statutes of 2019, Galgiani) requires All supervisors, including Board ~~M~~members, are required to complete two hours of sexual harassment prevention training within the first six months of appointment by January 1, 2021, and every two years thereafter.~~

All Board members are required to complete implicit bias training within the first six months of appointment and every two years thereafter.

There are additional training courses that may be helpful to members on DCA’s Learning Management System (LMS).

Appendix 1 Board Member Responsibilities

Board members represent the State of California and although ~~they are~~he/she is an individual members, Mmembers have an obligation to represent the Board as a body. Each member should carefully consider each responsibility and time commitment prior to agreeing to become a Board Mmember.

Attending meetings (12-20 days per year)

- Attend all meetings; be prepared for all meetings by reviewing and analyzing all Board materials; actively participate in meeting discussions; serve on committees of the Board to provide expertise in matters related to the Board.

Disciplinary Matters (12-40 days per year)

- Review and analyze all materials pertaining to disciplinary matters and provide a fair, unbiased decision; timely respond to every request for a decision on any disciplinary matter; review and understand the Board's disciplinary guidelines; review and amend the Board's disciplinary guidelines on a regular basis to align with the policies set by the Board.

Policy Decision Making (included above)

- Make educated policy decisions based upon both qualitative and quantitative data; obtain sufficient background information on issues upon which decisions are being made; seek information from Board staff regarding the functions/duties/requirements for the licensees being overseen; allow public participation and comment regarding matters prior to making decisions; ensure public protection is the highest priority in all decision making.

Governance (2-4 days per year)

- Monitor key and summary data from the Board's programs to evaluate whether business processes are efficient and effective; obtain training on issues pertaining to the Board (e.g. budget process, legislative process, enforcement/licensing process, etc.); make recommendations regarding improvements to the Board's mandated functions.
- Participate in the drafting and approval of a Strategic Plan; oversee the Strategic Plan on a quarterly-yearly basis to ensure activities are being implemented and performed; monitor any new tasks/projects to ensure they are in-line with the Strategic Plan.
- Provide guidance and direction ~~to the E~~xecutive O~~fficer~~fficer-director on the policies of the Board; annually evaluate the ~~E~~xecutive O~~fficer~~fficer-director; ~~-~~ assist the ~~E~~xecutive O~~fficer~~fficer-director in reaching the goals for the Board.

Outreach (1-4 days per year)

- When approved by the Board, represent the Board in its interaction with interested parties, the legislature, and the Department of Consumer Affairs.

Training (2 days per year)

- Obtain the required Board Mmember training in a timely manner, i.e. for example, -Board and DCA Board Member Orientation Training, Sexual Harassment Prevention Training, and Ethics Training.

Total Time: 29 – 70 days per year

DCA Orientation: October 21, 2020 and October 28, 2020