**Board of Chiropractic Examiners**
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
CA Relay Service TT/TDD (800) 735-2929
Consumer Complaint Hotline (866) 543-1311
www.chiro.ca.gov

# NOTICE OF PUBLIC MEETING

**July 29, 2010**
**10:00 a.m.**
**State Capitol**
**Fourth Floor, Assembly Room 444**
**Sacramento, CA 95814**

## AGENDA

1. **OPEN SESSION** – Call to Order & Establishment of a Quorum
   Frederick Lerner, D.C. Chair
   Hugh Lubkin, D.C., Vice Chair
   Francesco Columbu, D.C., Secretary
   Jeffrey Steinhardt, D.C.
   Richard Tyler, D.C.

2. **Chair's Report**

3. **Approval of Minutes**
   May 13, 2010 Board Meeting

4. **Public Comment**

5. **Board Member Training on the Bagley-Keene Open Meetings Act and Other Relevant Laws**

6. **Interim Executive Officer's Report**
   A. Administration
   B. Budget
   C. Licensing
   D. Enforcement

7. **Ratification of Approved License Applications**

8. **Ratification of Approved Continuing Education Providers**

9. **Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing**

10. **Recommendation to Waive Two Year Requirement to Restore a Cancelled License**

11. **Public Relations Committee Meeting Update** – Board may take action on any item on the attached Public Relations Committee meeting agenda.

12. **Legislation/Regulation Committee Meeting Update** – Board may take action on any item on the attached Legislation/Regulation Committee meeting agenda.

13. **Enforcement Committee Meeting Update** – Board may take action on any item on the attached Enforcement Committee meeting agenda.

**14. Enforcement Case Tracking**
Guest Speaker – Debbie Balaam, Department of Consumer Affairs' BreEZe Project

**15. Legislative Update**
A. AB1996 (Hill)
B. And any other legislation of interest to the Board

**16. Proposed Regulations**
A. Continuing Education
B. Fingerprint Submissions

**17. Hearing re Petition Pursuant to the Administrative Procedure Act re Section 704 of the Business and Profession Code and the Board's Continuing Education (CE) Regulations re Number CE Hours Required to Activate an Inactive License**

**18. Public Comment**

**19. Future Agenda Items**

**20. Hearings Re: Petition for Early Termination of Probation**
A. Anthony Loc Bao Nguyen

**21. Hearings Re: Petition for Reinstatement of Revoked License**
A. Carlos Seals
B. Leon Weathersby

**22. Closed Session**
A. Pursuant to California Government Code Section 11126(e)
1) Catherine Hayes v. Board of Chiropractic Examiners
Sacramento County Superior Court, Case No. 34-2008-0000647
2) David Hinchee v. Board of Chiropractic Examiners
Sacramento County Superior Court, Case No. 07AS03721
3) Board of Chiropractic Examiners v. Carole M. Arbuckle
Sacramento County Superior Court, Case No 03AS00948
B. Deliberation on Disciplinary Matters and Possible Action on Disciplinary Decisions
Pursuant to California Government Code Section 11126(c)(3)
C. Evaluation of Interim Executive Officer
Pursuant to California Government Code Section 11126(a)

**23. OPEN SESSION: Announcements Regarding Closed Session**

**24. Adjournment**

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Meetings of the Board of Chiropractic Examiners are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. Public comments will be taken on agenda items at the time the specific item is raised. The Board may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at www.chiro.ca.gov.

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or e-mail marlene.valencia@chiro.ca.gov or send a written request to the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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# BOARD OF CHIROPRACTIC EXAMINERS
# PUBLIC SESSION MINUTES
## May 13, 2010
**Crowne Plaza SFO**
**1177 Airport Blvd.**
**Burlingame, CA 94010**

**Board Members Present**
Frederick Lerner, D.C., Chair
Francesco Columbu, D.C., Secretary
Jeffrey Steinhardt, D.C.
Richard Tyler, D.C.

**Board Members Absent**
Hugh Lubkin, D.C., Vice Chair

**Staff Present**
Robert Puleo, Interim Executive Officer
LaVonne Powell, Senior Staff Counsel
Linda Shaw, Staff Services Manager
Sandra Walker, Staff Services Manager
Dixie Van Allen, Associate Governmental Program Analyst
Beckie Rust, Associate Governmental Program Analyst
Valerie James, Office Technician
Ray Delaney, Office Technician

**Call to Order**
Dr. Lerner called the meeting to order at 10:20 a.m.

**Roll Call**
Dr. Columbu called the roll. All members were present except Hugh Lubkin, D.C., Vice Chair.

**Chair's Report**
Dr. Lerner moved past the Chair's Report since items are being discussed during later topics.

**Federation of Chiropractic Licensing Boards Annual Conference – Outstanding Chiropractic Licensing Board Award**
Dr. Lerner, Dr. Lubkin, and Mr. Puleo attended the conference and Dr. Lerner provided an update from the conference. Some topics we will look at as a Board, others we cannot due to how our Act is written. Some topics discussed were national and international mobility, temporary licenses, US

Federal Data Reporting Requirements, documentation and record keeping, testing regulations, and regulating Chiropractic Assistants.

Dr. Lerner announced that the Board received the "Outstanding Chiropractic Licensing Board Award".

**Approval of Minutes**
March 18, 2010 Board Meeting

**MOTION: DR. TYLER MOVED TO APPROVE THE MINUTES**
**SECOND: DR. STEINHARDT SECONDED THE MOTION**
**VOTE: 4-0**
**MOTION CARRIED**

**Public Comment**
Kendra Holloway asked for more specific details on the complaints received regarding spinal decompressing.

Mr. Puleo responded that the complaints are regarding misleading advertising.

**Board Member training on the Bagley-Keene Open Meetings Act and other relevant laws**
Ms. Powell stated there is no new information to be brought forward.

**Interim Executive Officer's Report**
Mr. Puleo gave the Interim Executive Officer's Report. The topics were Administration, Budget, Licensing, and Enforcement.

**MOTION: DR. LERNER MOVED TO APPROVE SAMPLE B FOR THE BOARD'S LOGO**
**SECOND: DR. TYLER SECONDED THE MOTION**
**VOTE: 4-0**
**MOTION CARRIED**

**Ratification of Approved License Applications**

**MOTION: DR. TYLER MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS**
**SECOND: DR. STEINHARDT SECONDED THE MOTION**
**VOTE: 4-0**
**MOTION CARRIED**
The Board ratified the attached list of approved license applications incorporated herein (Attachment A).

**Discussion**
None

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**Ratification of Approved Continuing Education Providers**

**MOTION: DR. STEINHARDT MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDERS**
**SECOND: DR. COLUMBU SECONDED THE MOTION**
**VOTE: 4-0**
**MOTION CARRIED**
The Board ratified the attached list of approved continuing education providers incorporated herein (Attachment B).

**Discussion**
None

**Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing**
None

**Recommendation to Waive Two Year Requirement to Restore a Cancelled License**
None

**Enforcement Committee Meeting Update**
Dr. Lerner provided an update from last weeks meeting.

Dr. Lerner, Mr. Puleo, and Ms. Powell discussed the provisions of SB1111 that the Board would be interested in pursuing through a regulatory package.

**Legislative Update**
A. SB1111 (Negrete McLeod)
Dr. Lerner stated this is currently a dead bill.

Ms. Powell recommended the Board keep an eye on this bill in case it comes back.

B. AB1996 (Hill)
Mr. Puleo provided an update stating the language hasn't changed since the amendment in April. It passed out of the assembly with bipartisan support and is currently waiting to be assigned to committees.

Dr. Lerner, Mr. Puleo and Ms. Powell discussed getting regulations started.

C. SB1413 (Leno)
Mr. Puleo stated this bill deals with healthy choices and options for school children and would require the school districts to provide access to free drinking water and food service.

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**MOTION: DR. COLUMBU MOVED TO SUPPORT SB1413**
**SECOND: DR. TYLER SECONDED THE MOTION**
**VOTE: 4-0**
**MOTION CARRIED**

**Discussion**
None

**Public Comment**
None

D. SB1255 (Padilla)
Mr. Puleo stated this bill deals with healthy choices and options for school children and would limit the availability of sports drinks in schools.

**MOTION: DR. COLUMBU MOVED TO SUPPORT SB1255**
**SECOND: DR. STEINHARDT SECONDED THE MOTION**
**VOTE: 4-0**
**MOTION CARRIED**

**Discussion**
None

**Public Comment**
None

E. AB2705 (Hall)
Mr. Puleo stated this bill deals with exercise during school.

**MOTION: DR. COLUMBU MOVED TO SUPPORT AB2705**
**SECOND: DR. TYLER SECONDED THE MOTION**
**VOTE: 4-0**
**MOTION CARRIED**

**Discussion**
None

**Public Comment**
None

F. Any Other Bills of Interest to the Board
Mr. Puleo stated there are no other bills at this time.

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**Proposed Regulations**

A. Continuing Education

Ms. Powell provided an update stating the CE regulations were noticed and we received a petition filed under the Administrative Procedure Act. She recommends the Board hold a hearing to address the regulations as well as the petition.

Dr. Lerner, Mr. Puleo and Ms. Powell had a discussion on the current 45 day comment period.

B. Fingerprint Submissions

Ms. Van Allen provided an update stating the regulation package was submitted to the Office of Administrative Law (OAL) on April 19, 2010 and the 45 day comment period will end on June 14, 2010. No written comments have been received at this time.

**MOTION: DR. LERNER MOVED TO ADOPT THE LANUAGE AS NOTICED AND DELEGATE TO THE EXECUTIVE OFFICER TO RESPOND TO POSITIVE COMMENTS AND FILE WITH OAL IF NO NEGATIVE COMMENTS ARE RECEIVED**
**SECOND: DR. COLUMBU SECONDED THE MOTION**
**VOTE: 4-0**
**MOTION CARRIED**

**Discussion**
None

**Public Comment**
None

E. California Code of Regulations Section 314 (Law Violators)

Ms. Van Allen provided an update stating the regulation package was submitted to OAL on April 19, 2010 for approval and OAL's deadline to approve or deny is June 1, 2010. No written comments have been received at this time.

**MOTION: DR. LERNER MOVED TO ADOPT THE LANUAGE AS NOTICED AND DELEGATE TO THE EXECUTIVE OFFICER TO RESPOND TO POSITIVE COMMENTS AND FILE WITH OAL IF NO NEGATIVE COMMENTS ARE RECEIVED**
**SECOND: DR. COLUMBU SECONDED THE MOTION**
**VOTE: 4-0**
**MOTION CARRIED**

**Discussion**
None

**Public Comment**
None

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**Cost Recovery for Petitioner Hearing**
Mr. Puleo discussed details on the cost of petitioner hearings and asked the Board if they wished to require petitioners to pay cost recovery.

**MOTION: DR. LERNER MOVED TO CHARGE AN APPLICATION FEE TO PETITIONERS FOR REINSTATMENT**
**SECOND: DR. COLUMBU SECONDED THE MOTION**
**VOTE: 4-0**
**MOTION CARRIED**

**Discussion**
The Board members, Mr. Puleo and Ms. Powell discussed the option of charging an application fee.

**Public Comment**
None

**MOTION: DR. LERNER MOVED TO HAVE THE APPLICATION FEE FOR PETITIONERS REQUESTING REINSTATMENT BE $2,000**
**SECOND: DR. STEINHARDT SECONDED THE MOTION**
**VOTE: 4-0**
**MOTION CARRIED**

**Discussion**
None

**Public Comment**
None

**Public Comment**
None

**Future Agenda Items**
Dr. Lerner provided two future agenda items:

1.) Satellite certificate regulations and fees
2.) Signing of license certificate by Board Members vs. Executive Officer

Dr. Steinhardt would like to discuss Scope of Practice section 302.

**Hearings re: Petition for Reinstatement of Revoked License**
Administrative Law Judge Michael C. Cohn presided over and Deputy Attorney General Joshua Room appeared on behalf of the people of the State of California on the following hearings:

- Robert Bostock
- Richard Warner
- Linda Powers

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**Closed Session**
Following oral testimonies, the Board went into closed session for deliberation and determinations of Petitioners.

**Adjournment**
Dr. Lerner adjourned the public meeting at 4:30 p.m.

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## Attachment A

Approval By Ratification of Formerly Approved License Applications
March 1, 2010 – April 30, 2010

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| Name (First, Middle, Last) | | | Date Issued | DC# |
|---|---|---|---|---|
| Matthew | George | Bernal | 3/3/2010 | 31570 |
| Marshea | Darlene | Evans | 3/3/2010 | 31571 |
| Tracy | A | Goldych | 3/3/2010 | 31572 |
| Abraham | Hershel | Grosswasser | 3/3/2010 | 31573 |
| Heather | Lynn | Guillen | 3/3/2010 | 31574 |
| Andrew | Jacob | Gutierrez | 3/3/2010 | 31575 |
| Jacob | William Tracey | Harris | 3/3/2010 | 31576 |
| Bradley | Philip | Hartung | 3/3/2010 | 31577 |
| Douglas | Paul | Knapp | 3/3/2010 | 31578 |
| Gabrielle | Denise | Kovelman | 3/3/2010 | 31579 |
| Michael | John | Krejci | 3/3/2010 | 31580 |
| Nina | Hong Quyen | La | 3/3/2010 | 31581 |
| Euiwoong | | Lee | 3/3/2010 | 31582 |
| James | Edgar | Allen III | 3/11/2010 | 31583 |
| Michelle | Capri | Bean | 3/11/2010 | 31584 |
| Joshua | Daniel | Ben | 3/11/2010 | 31585 |
| Erika | Beatriz | Bonilla | 3/11/2010 | 31586 |
| Laurel | Lyn | Butts | 3/11/2010 | 31587 |
| Jesstofed | Manuel | Cacho | 3/11/2010 | 31588 |
| Joshua | Alan | Caldwell | 3/11/2010 | 31589 |
| Stephanie | F. | Canada | 3/11/2010 | 31590 |
| Spencer | James | Cruttenden | 3/11/2010 | 31591 |
| Pouriya | | Elyasi | 3/11/2010 | 31592 |
| Anne Carole | Geraldine | Foucteau-Rector | 3/11/2010 | 31593 |
| Cali | | Ha | 3/11/2010 | 31594 |
| Tarik | Maurice | Hyams | 3/11/2010 | 31595 |
| Annie | | Issagholyan | 3/11/2010 | 31596 |
| Michael | David | Isseks | 3/11/2010 | 31597 |
| Maxwell | Ray Martice | Lippman | 3/11/2010 | 31598 |
| Kelly | Shawn | Maguire | 3/11/2010 | 31599 |
| Wade | Lewis | Malesich | 3/11/2010 | 31600 |
| Tirtha | | Mendake | 3/11/2010 | 31601 |

| | | | | |
|---|---|---|---|---|
| Katja | Jackeline | Backe | 3/11/2010 | **31602** |
| Shalese | | Madison | 3/11/2010 | **31603** |
| Douglas | Charles | Pierce | 3/16/2010 | **31604** |
| Kevin | Michael | Pierce | 3/16/2010 | **31605** |
| Jennifer | Hee Eun | VanCleave | 3/16/2010 | **31606** |
| Surachna | | Virdi | 3/16/2010 | **31607** |
| Jessie | Lyn | Young | 3/16/2010 | **31608** |
| Mary | Florence | Carmella | 3/18/2010 | **31609** |
| Gordon | Joseph | Grobelny | 3/18/2010 | **31610** |
| Jennifer | Chang-Jean | Lui | 3/18/2010 | **31611** |
| Brett | Edward | Davis | 3/23/2010 | **31612** |
| Tena | Ann | Hosner | 3/23/2010 | **31613** |
| Timothy | Scott | Hulsey | 3/23/2010 | **31614** |
| Kyu | Sung | Hwang | 3/23/2010 | **31615** |
| Tina | Marie | Krell | 3/23/2010 | **31616** |
| Martin | Matthew | McDonald | 3/23/2010 | **31617** |
| Monique | Marie | Motil | 3/23/2010 | **31618** |
| Stephanie | | Chiu | 3/24/2010 | **31619** |
| Ghazi | Samir | Idriss | 3/24/2010 | **31620** |
| Hector | Manuel | Rivera-Melo | 3/26/2010 | **31621** |
| Amy | Amanda | Sanders | 3/26/2010 | **31622** |
| Jeffrey | Alan | Herbert | 3/26/2010 | **31623** |
| Lynnard | Abella | Cabanas | 3/26/2010 | **31624** |
| Valerie | Jean | Cachola | 3/26/2010 | **31625** |
| Suzanne | Alicia | Chavez | 3/26/2010 | **31626** |
| Charlene | May | Lohmueller | 3/26/2010 | **31627** |
| Eric | B | Pascua | 3/26/2010 | **31628** |
| Nicky | | Silver | 3/26/2010 | **31629** |
| Raymond | Gonzales | Rojas | 3/30/2010 | **31630** |
| Sheena | Danielle | Smith | 3/30/2010 | **31631** |
| Lance | Allen | Turner | 3/30/2010 | **31632** |
| Lindsey | Keeler | Mathews | 4/8/2010 | **31633** |
| Mai | Tran | Bui | 4/14/2010 | **31634** |
| Elena | Marie | Porter | 4/23/2010 | **31635** |
| Cassandra | Marilyn | Ramos-Barnes | 4/23/2010 | **31636** |
| Alicia | Jane | Thomsen | 4/23/2010 | **31637** |
| Evan | Edgar | Brady | 4/23/2010 | **31638** |
| Melissa | | Diaz | 4/23/2010 | **31639** |
| Anna | | Gasparian | 4/23/2010 | **31640** |
| Armen | | Manoucherian | 4/23/2010 | **31641** |

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| | | | | |
|---|---|---|---|---|
| Dakota | Ray | Montgomery | 4/23/2010 | **31642** |
| Audrey | Elizabeth | Myers | 4/23/2010 | **31643** |
| Erin | Iselin | Christiansen | 4/26/2010 | **31644** |
| Megan | Jean | Duchek | 4/26/2010 | **31645** |

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## Attachment B

Ratification of Formerly Approved Continuing Education Providers

| Name (First, Middle, Last) | Date Approved |
|---|---|
| ▪ **Marcus S. Strutz, D.C.** | **04/20/2010** |
| ▪ **Spinal Reflex Institute, International** | **04/30/2010** |

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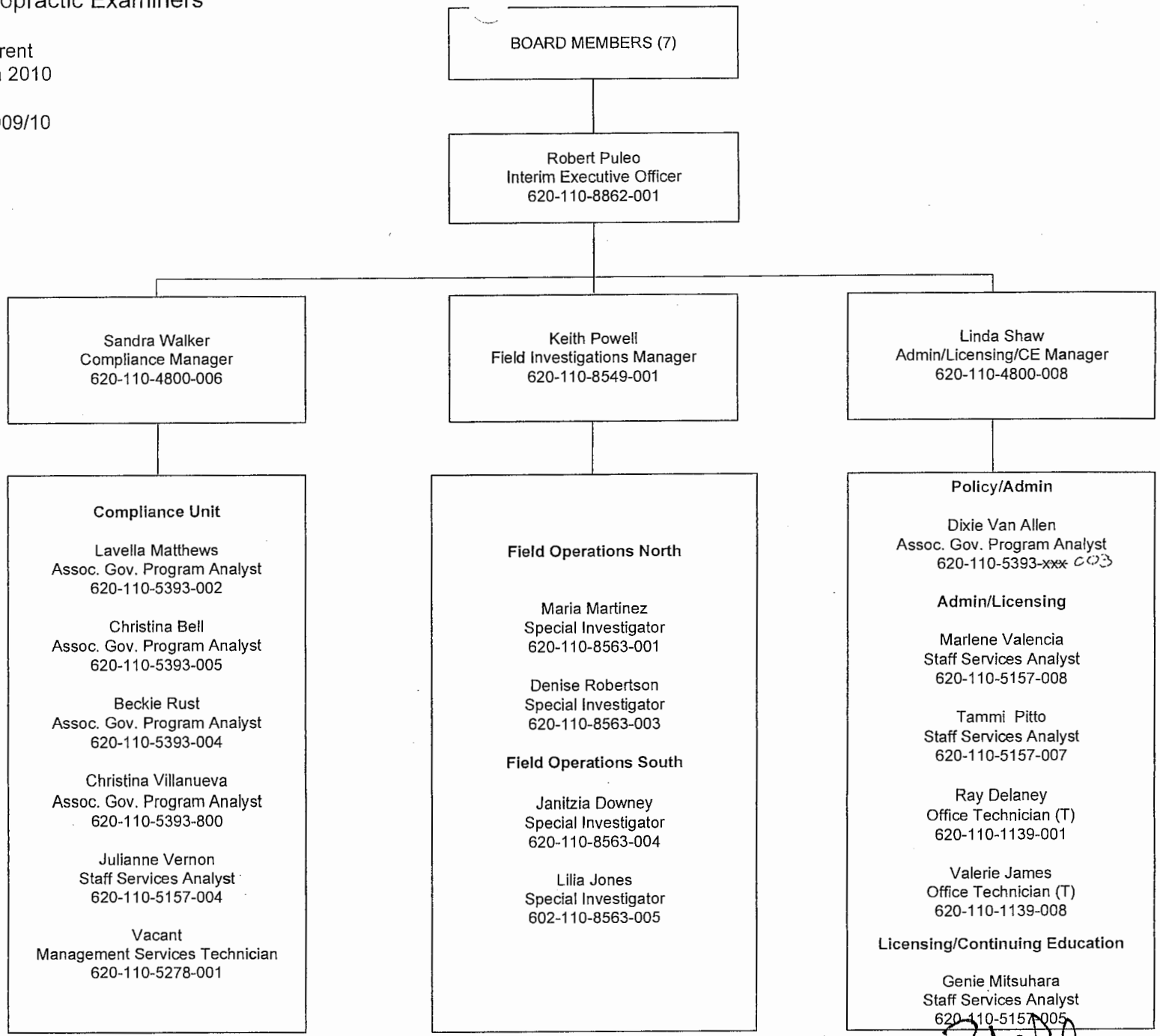
State ard of Chiropractic Examiners

Current
March 2010

FY 2009/10




Interim Executive Officer Rob Puleo

Rev. 3/23/10

**Recruitment and Selection of Vacant Positions**
**July 1, 2010**

| Classification | Date Advertised | Application Review | Interviews Conducted | Background Checks | Formal Offer | Start Date |
|---|---|---|---|---|---|---|
| Student Assistant | 5/28/10 | Completed | Completed | Yes | Pending | Pending |
| Management Services Technician (Administrative Unit) | | | | | | |

**FUND NO. 0152**

Expense Index

# BOARD OF CHIROPRACTIC EXAMINERS
## BUDGET REPORT
## EXPENDITURE PROJECTION

June 30, 2010

MONTH 12 — Mos. Remaining: 0

| OBJECT DESCRIPTION | FY 2007-08 ACTUAL EXPENDITURES (MONTH 13) | FY 2008-09 ACTUAL EXPENDITURES (MONTH 13) | FY 2008-09 PY EXPENDITURES AS OF 6/30/09 | FY 2009-10 BUDGET ALLOTMENT | FY 2009-10 CY EXPENDITURES AS OF 6/30/10 | FY 2009-10 PERCENT OF BUDGET SPENT | FY 2009-10 PROJECTIONS TO YEAR END | FY 2009-10 UNENCUMBERED BALANCE |
|---|---|---|---|---|---|---|---|---|
| **PERSONAL SERVICES:** | | | | | | | | |
| Salaries and Wages | | | | | | | | |
| Civil Service-Perm | 411,012 | 844,062 | 840,354 | 897,503 | 825,462 | 92.0% | 825,462 | 72,041 |
| Temp Help (907) | 4,861 | 52,473 | 52,473 | 4,615 | 4,736 | 102.6% | 4,736 | (121) |
| Board/Commission (910,920) | 4,300 | 7,500 | 7,500 | 16,000 | 6,000 | 37.5% | 6,000 | 10,000 |
| S & W Statutory - Exempt | | | | 93,948 | 78,666 | | 78,666 | |
| Overtime (909) | 3,512 | 0 | 0 | 0 | 158 | 0.0% | 158 | (158) |
| Staff Benefits | 208,524 | 328,968 | 328,914 | 393,518 | 379,379 | 96.4% | 379,379 | 14,139 |
| Salary Savings | 0 | 0 | | (16,219) | | 0.0% | 0 | (16,219) |
| ***TOTAL, PERSONAL SVC*** | 969,628 | 1,233,003 | 1,229,241 | 1,389,365 | 1,294,401 | 61.6% | 1,294,401 | 79,682 |
| **OPERATING EXPENSE AND EQUIPMENT:** | | | | | | | | |
| General Expense | 12,638 | 37,667 | 26,252 | 25,124 | 104,729 | 416.8% | 104,729 | (79,605) |
| Printing | 4,495 | 18,314 | 18,314 | 3,715 | 2,123 | 57.1% | 2,123 | 1,592 |
| Communication | 18,697 | 41,041 | 31,807 | 26,152 | 27,483 | 105.1% | 27,483 | (1,331) |
| Postage | 21,284 | 14,935 | 3,785 | 6,273 | 16,164 | 257.7% | 16,164 | (9,891) |
| Travel In State | 12,792 | 65,054 | 64,831 | 22,354 | 63,598 | 284.5% | 63,598 | (41,244) |
| Travel, Out-of-State | 2,708 | 964 | 964 | 27,489 | 871 | 3.2% | 871 | 26,618 |
| Training | 863 | 22,198 | 21,137 | 4,029 | 3,011 | 74.7% | 3,011 | 1,018 |
| Facilities Operations | 109,487 | 113,807 | 113,099 | 128,126 | 122,009 | 95.2% | 122,009 | 6,117 |
| C & P Services - Interdept. | 179,027 | 48,496 | 37,877 | 50,390 | 35,776 | 71.0% | 35,776 | 14,614 |
| C & P Services - External | 417,461 | 217,118 | 212,997 | 40,678 | 479,163 | 1177.9% | 349,794 | (309,116) |
| DP Billing (OIS) Prorata | 0 | 0 | 0 | 0 | | 0.0% | 0 | 0 |
| Consolidated Data Center | 26,800 | 42,733 | 0 | 27,346 | 44,430 | 162.5% | 44,430 | (17,084) |
| Interagcy Agreement IT | 70,000 | 107,673 | 107,673 | 43,527 | 109,237 | 251.0% | 81,927 | (38,400) |
| NOC Serv IT (Security) | 49,500 | 16,685 | 15,392 | 67,227 | 6,338 | 9.4% | 6,338 | 60,889 |
| IT Consultant | 0 | 0 | 0 | 56,972 | | 0.0% | 0 | 56,972 |
| DP Supplies | 1,217 | 2,152 | 1,881 | 0 | 669 | 0.0% | 669 | (669) |
| Central Admin Pro Rata | 0 | 126,458 | 128,400 | 480,000 | 600,000 | 125.0% | 600,000 | (120,000) |
| Administrative External Svcs | 178 | 2,319 | 2,319 | 0 | 926 | 0.0% | 926 | (926) |
| Equipment Repl/Addtl | 97,530 | 0 | 0 | 0 | | 0.0% | 0 | 0 |
| Minor Equipment | 0 | 10,998 | 10,998 | 34,729 | 906 | 2.6% | 906 | 33,823 |
| Other Items of Expense | 0 | 252 | 252 | 0 | 75,000 | 0.0% | 75,000 | (75,000) |
| Vehicle Operations | 0 | 1,207 | 894 | 6,000 | 3,721 | 62.0% | 3,721 | 2,279 |
| **ENFORCEMENT:** | | | | | | | | |
| Attorney General | 342,327 | 991,137 | 691,112 | 997,347 | 774,831 | 77.7% | 655,071 | 342,276 |
| Attorney General Fingerprinting | 5,128 | 6,340 | 5,240 | 5,000 | 79,259 | 1585.2% | 79,259 | (74,259) |
| Office Admin. Hearing | 48,411 | 71,078 | 57,641 | 235,080 | 98,843 | 42.0% | 98,843 | 136,237 |
| Evidence / Witness Fees | 17,168 | 650 | 650 | 75,000 | | 0.0% | 0 | 75,000 |
| Consultant Investigations | 120,000 | 0 | 0 | 41,841 | | 0.0% | 0 | 41,841 |
| Div. of Investigations | 0 | 0 | 0 | 0 | | 0.0% | 0 | 0 |
| Special Adjustments | 0 | 0 | 0 | 0 | | 0.0% | 0 | 0 |
| Forced OE&E Savings | 0 | 0 | 0 | 0 | 0 | 0.0% | 38,545 | (38,545) |
| ***TOTALS, OE&E:*** | 1,751,597 | 1,959,276 | 1,553,515 | 2,404,399 | 2,649,087 | 110.2% | 2,411,193 | (6,794) |
| ***TOTAL EXPENSE:*** | 2,721,225 | 3,192,279 | 2,782,756 | 3,793,764 | 3,943,488 | 103.9% | 3,705,594 | 72,888 |
| Sched. Reimb. - Other | (4,312) | (5,570) | (5,417) | (34,000) | (3,891) | 0.0% | (3,891) | (30,109) |
| Sched. Reimb. - Fingerprints | 0 | 0 | 0 | (10,000) | 0 | 0.0% | 0 | (10,000) |
| Unsched. Reimb. | 0 | 0 | 0 | 0 | 0 | 0.0% | 0 | 0 |
| ***TOTAL REIMBURSEMENTS:*** | 0 | (5,570) | (5,417) | (44,000) | (3,891) | 0.0% | (3,891) | (40,109) |
| ***NET APPROPRIATION:*** | **2,721,225** | **3,186,709** | **2,777,339** | **3,749,764** | **3,939,597** | **105.1%** | **3,701,703** | **32,779** |
| | | | | | | **SURPLUS/(DEFICIT):** | | **0.87%** |

# BOARD OF CHIROPRACTIC EXAMINERS
# LICENSE STATISTICAL DATA

## FY 2009/10 – FY 2010/11 COMPARISON

| LICENSE TYPE | TOTAL LICENSES 7/1/2009 | TOTAL LICENSES 7/1/2010 | NET VARIANCE |
|---|---|---|---|
| CHIROPRACTOR | 13,812 | 13,901 | +89 |
| SATELLITES | 2,772 | 3,521 | +749 |
| CORPORATIONS | 1,337 | 1,305 | -32 |
| REFERRALS | 33 | 33 | 0 |
| TOTALS | 17,940 | 18,735 | +795 |

## APPLICATIONS RECEIVED AND PROCESSED
## MAY 1, 2010 – JUNE 30, 2010

| APPLICATION TYPE | RECEIVED | APPROVED | DENIED | WITHDRAWN | PENDING |
|---|---|---|---|---|---|
| INITIAL | 63 | 73 | 1 | 0 | 128 |
| RECIPROCAL | 2 | 1 | 0 | 0 | 12 |
| RESTORATION | 43 | 36 | 0 | 0 | 13 |
| CORPORATION | 17 | 15 | 2 | 0 | 23 |

*No. xxxxxx*

# License to Practice Chiropractic

## JOHN SMITH

*STATE OF CALIFORNIA*

# BOARD OF CHIROPRACTIC EXAMINERS

Having qualified by law, is by this Certificate authorized to practice Chiropractic in the State of California as taught in chiropractic schools or colleges; and is also authorized to use all necessary mechanical, and hygienic and sanitary measures incident to the care of the body, as provided by law.

IN TESTIMONY WHEREOF, THE STATE BOARD OF CHIROPRACTIC EXAMINERS has granted this License to Practice Chiropractic and caused same to be signed and its seal hereto affixed, this xx day of MONTH, YEAR.

BOARD *of* CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

Board Chair

Vice Chair

[person 3]

[person 4]

[person 5]

[person 6]

# BOARD OF CHIROPRACTIC EXAMINERS

*OF CALIFORNIA*

*certifies*

# JOHN SMITH

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***License to Practice Chiropractic***

*License No. DC xxxxxx*

IN TESTIMONY WHEREOF, THE STATE BOARD OF CHIROPRACTIC EXAMINERS has granted this License to Practice Chiropractic and caused same to be signed and its seal hereto affixed, this xx day of MONTH, YEAR.

BOARD *of* CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

Board Chair

Vice Chair

[person 3]

[person 4]

[person 5]

[person 6]

# Compliance Unit Statistics

| Fiscal Year | 05/06 | 06/07 | 07/08 | 08/09 | 09/10* |
|---|---|---|---|---|---|
| **Complaints** | | | | | |
| Received | 764 | 702 | 644 | 655 | 519 |
| Pending | 760 | 863 | 824 | 410 | 203 |
| Closed with Insufficient Evidence | 118 | 132 | 107 | 206 | 136 |
| Closed with No Violation | 98 | 61 | 78 | 223 | 129 |
| Closed with Merit | 319 | 202 | 321 | 275 | 158 |
| Letter of Admonishment | n/a | n/a | n/a | n/a | 5 |
| Citations and Fines Issued (Total Fine Amount) | 36 | 34 | 28 | 41($19,200) | 78($25,700) |
| **Accusations** | | | | | |
| Filed | 45 | 41 | 13 | 64 | 73 |
| Pending | 142 | 92 | 73 | 105 | 117 |
| Revoked | 16 | 27 | 8 | 10 | 18 |
| Revocation Stayed: Probation | 16 | 23 | 10 | 4 | 20 |
| Revocation Stayed: Suspension and Probation | 15 | 15 | 10 | 7 | 8 |
| Suspension | 0 | 1 | 0 | 0 | 0 |
| Suspension Stayed: Probation | 0 | 0 | 0 | 0 | 1 |
| Suspension and Probation | 0 | 0 | 0 | 2 | 0 |
| Voluntary Surrender of License | 8 | 4 | 2 | 2 | 7 |
| Dismissed/Withdrawn | 0 | 3 | 3 | 5 | 18 |
| **Statement of Issues** | | | | | |
| Filed | 5 | 11 | 7 | 3 | 3 |
| Denied | 1 | 1 | 0 | 1 | 0 |
| Probationary License | 6 | 9 | 7 | 4 | 7 |
| Withdrawn at Applicant's Request | 0 | 2 | 1 | 0 | 0 |
| Granted | 8 | 3 | 0 | 0 | 0 |
| **Petition for Reconsideration** | | | | | |
| Filed | 1 | 1 | 0 | 1 | 3 |
| Granted | 1 | 0 | 0 | 0 | 0 |
| Denied | 0 | 1 | 0 | 1 | 2 |
| **Petition for Reinstatement of License** | | | | | |
| Filed | 9 | 10 | 15 | 13 | 9 |
| Granted | 1 | 5 | 12 | 4 | 4 |
| Denied | 9 | 4 | 6 | 11 | 11 |
| **Petition for Early Termination of Probation** | | | | | |
| Filed | 2 | 5 | 6 | 6 | 6 |
| Granted | 1 | 4 | 1 | 6 | 1 |
| Denied | 1 | 0 | 1 | 2 | 2 |
| **Petition for Modification of Probation** | | | | | |
| Filed | 1 | 0 | 0 | 0 | 0 |
| Granted | 1 | 0 | 0 | 0 | 0 |
| Denied | 0 | 0 | 0 | 0 | 0 |
| **Petition by Board to Revoke Probation** | | | | | |
| Filed | 2 | 2 | 0 | 11 | 32 |
| Revoked | 0 | 0 | 0 | 3 | 7 |
| **Probation Cases** | | | | | |
| Active | 188 | 174 | 159 | 140 | 134 |

* FY 09/10: July 1, 2009 – June 30, 2010

Revised: July 1, 2010

# Violation Codes/Descriptions

## The Chiropractic Initiative Act of California (ACT):

10 – Rules of Professional Conduct
15 – Noncompliance With and Violations of Act

## California Code of Regulations (CCR):

302(a) – Scope of Practice
303 – Filing of Addresses
304 – Discipline by Another State
308 – Display of License
311 – Advertisements
312 – Illegal Practice
316 – Responsibility for Conduct on Premises
317 – Unprofessional Conduct
318 – Chiropractic Patient Records/Accountable Billing
319 – Free or Discount Services
355 – Renewal and Restoration
360 – Continuing Education Audits
367.5 – Application, Review of Refusal to Approve (corporations)
367.7 – Name of Corporation

## Business and Professions Code (BP):

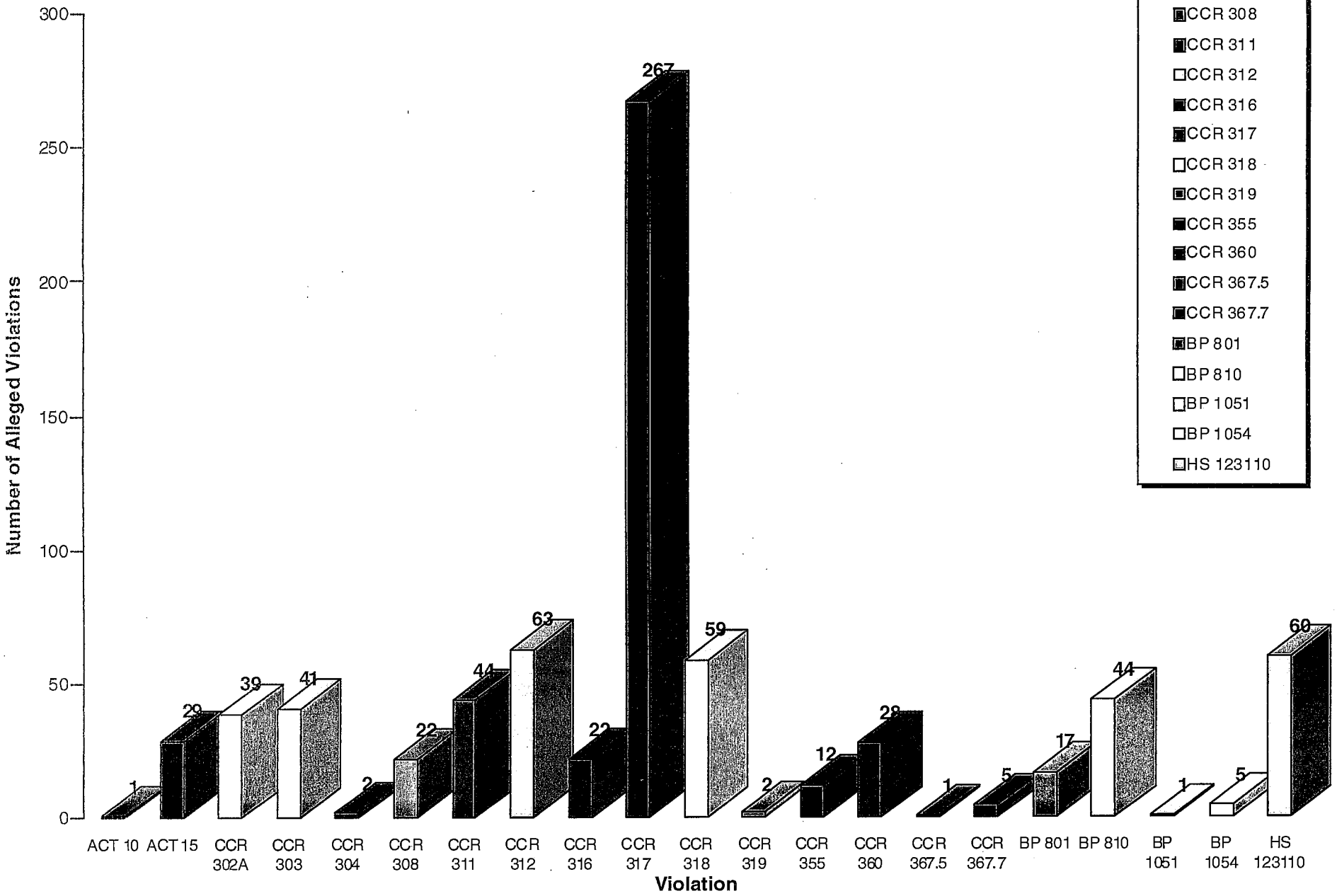
801 – Professional Reporting Requirements (malpractice settlements)
810 – Insurance Fraud
1051 – Apply for a Corporation with the Board
1054 – Name of Chiropractic Corporation

## Health and Safety Code (HS):

123110 – Patient Access to Health Records

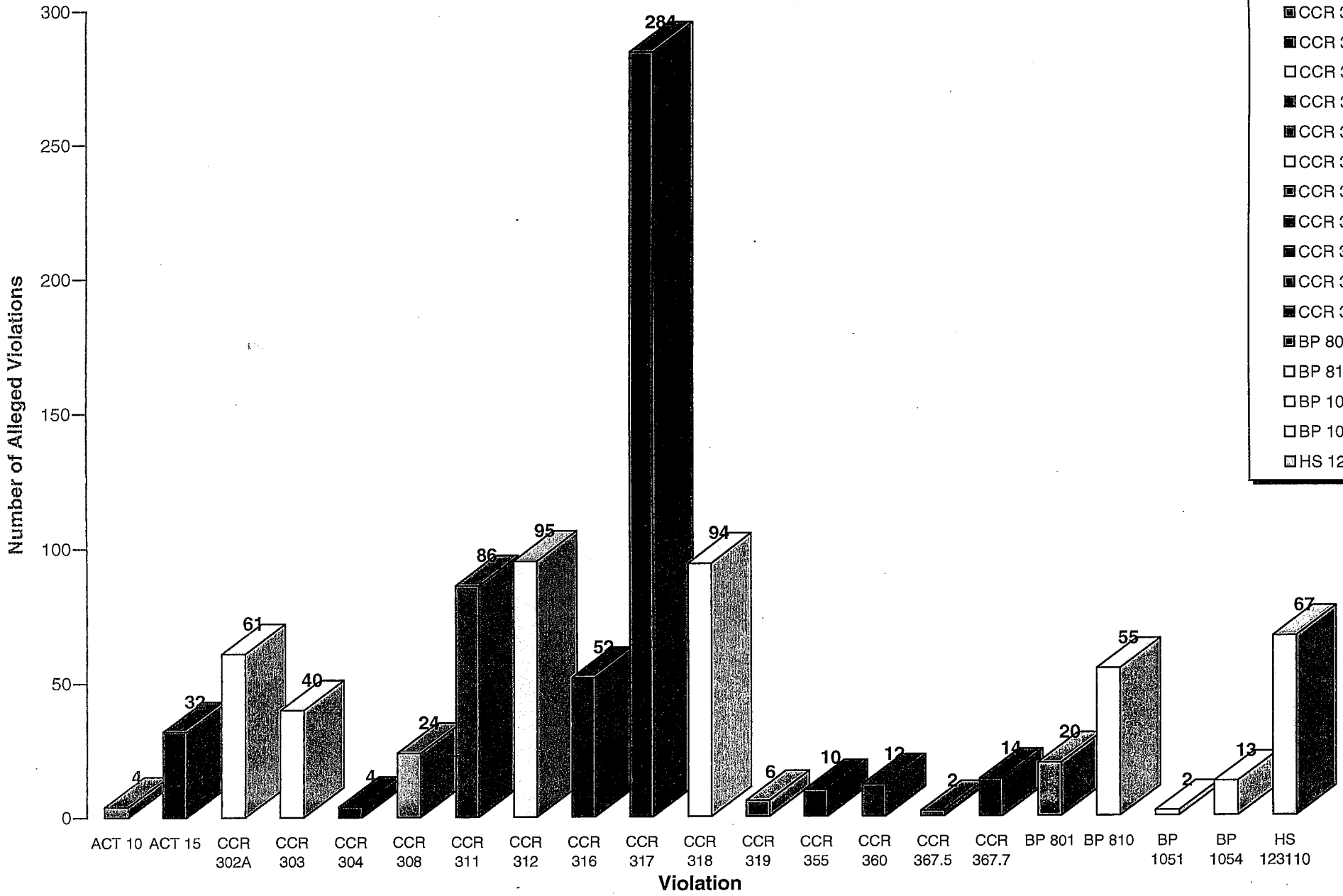
# FISCAL YEAR 2010

July 1, 2009 - June 30, 2010
Total Number of Complaints Opened - 519
Total Number of Violations - 764
(A complaint may contain multiple violations)



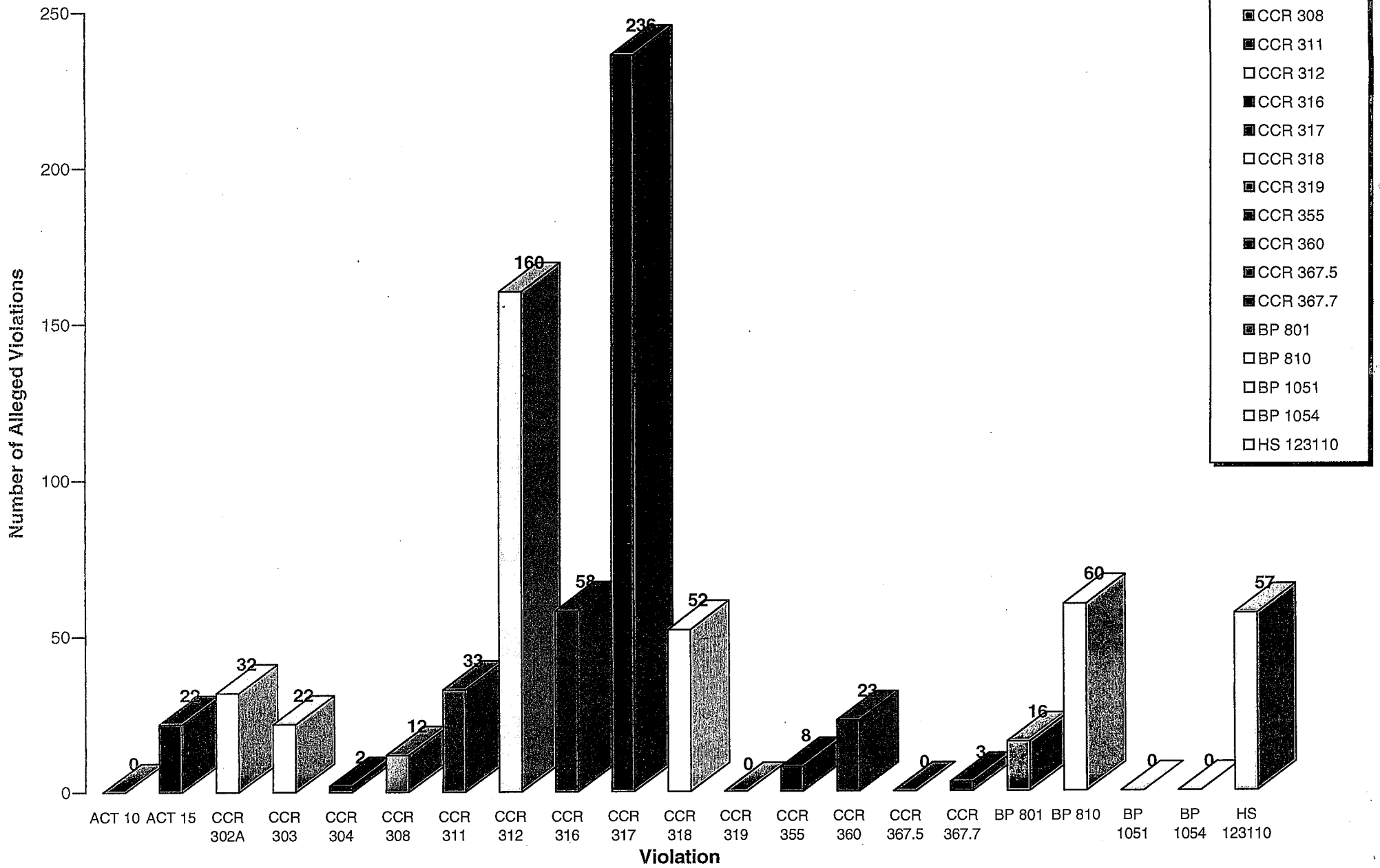
# FISCAL YEAR 2009

July 1, 2008 - June 30, 2009
Total Number of Complaints Opened - 655
Total Number of Violations - 977
(A complaint may contain multiple violations)



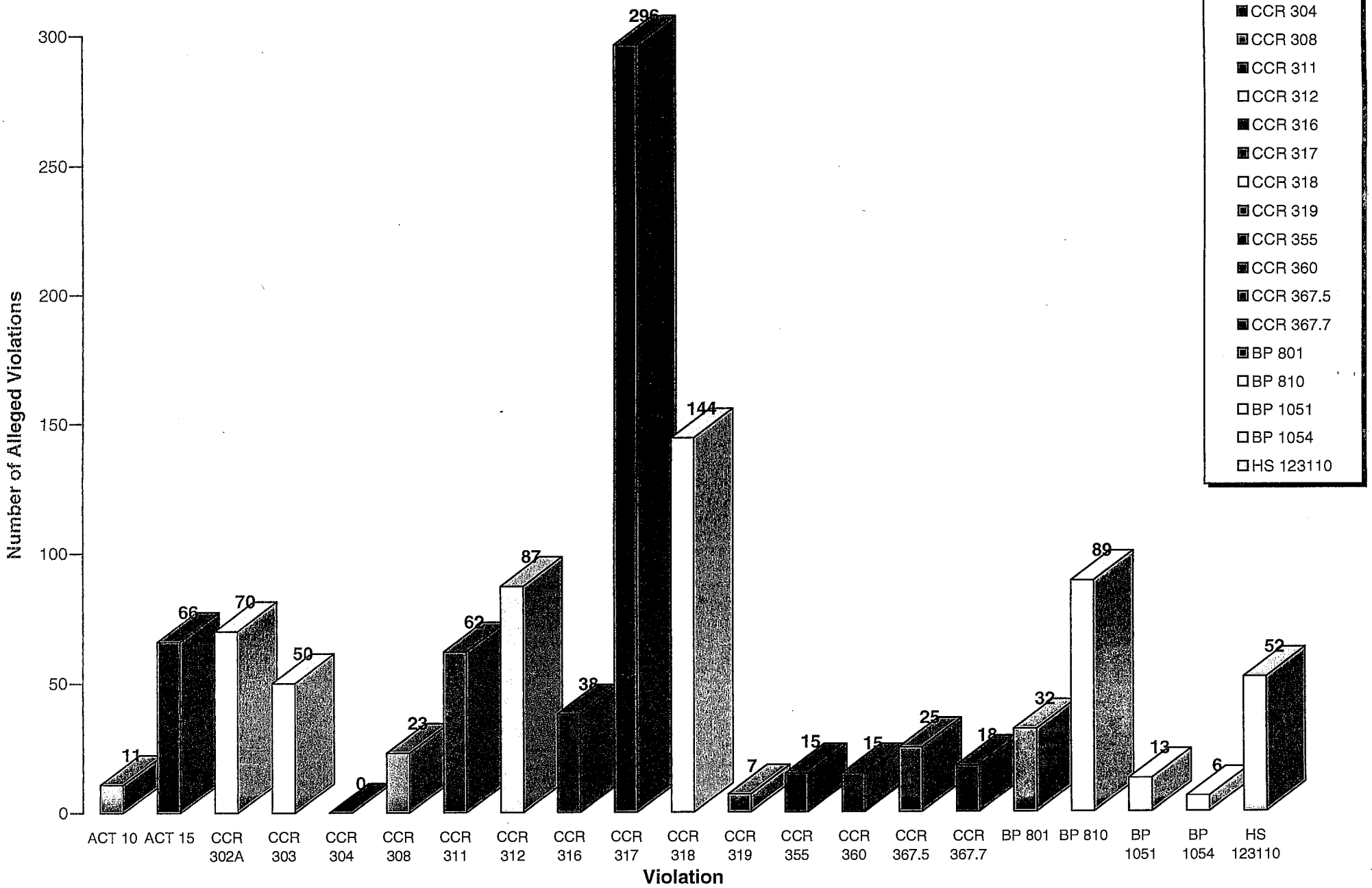
# FISCAL YEAR 2008

July 1, 2007 - June 30, 2008
Total Number of Complaints Opened - 644
Total Number of Violations - 796
(A complaint may contain multiple violations)
Revised February 2009*



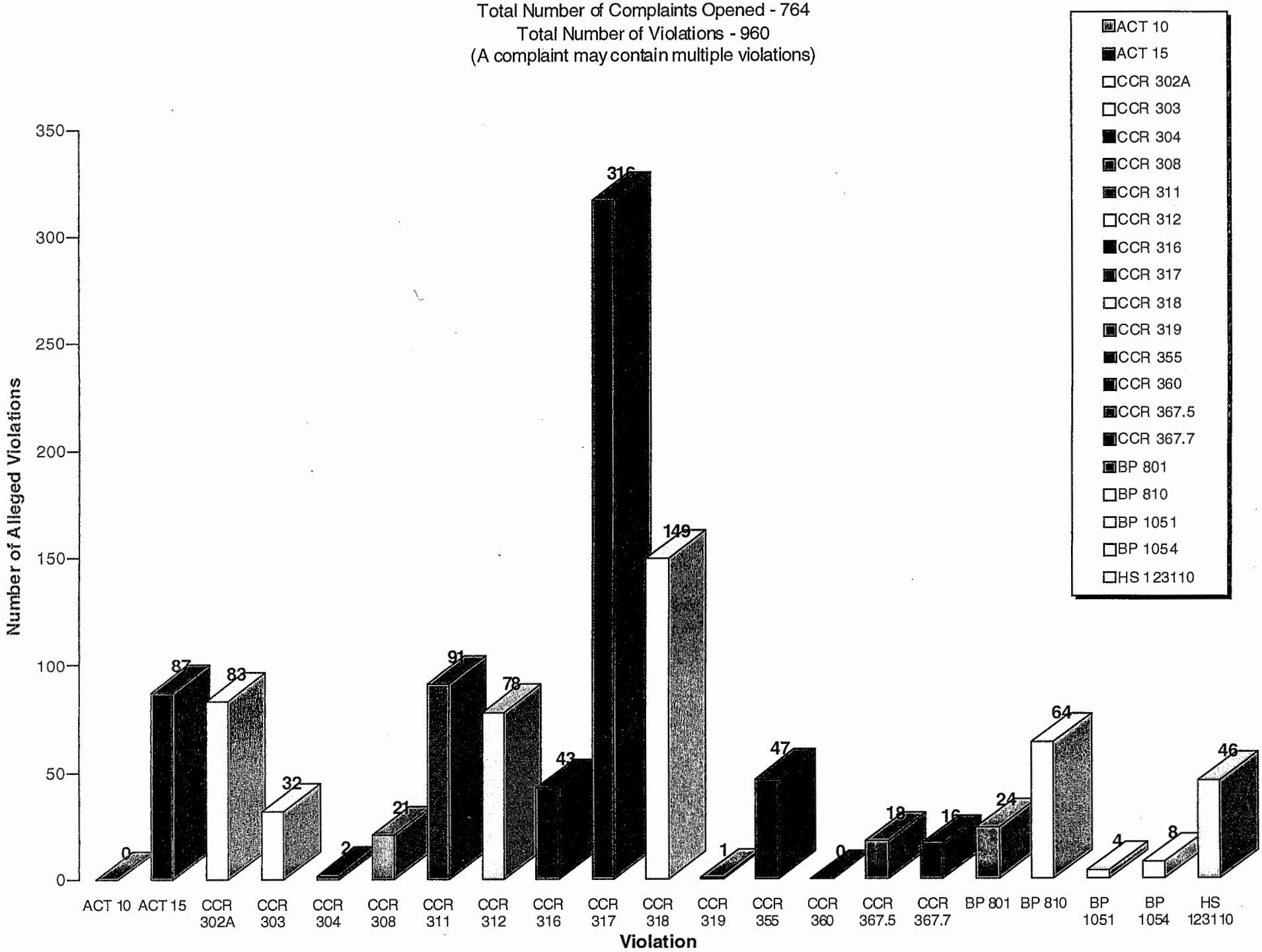
# FISCAL YEAR 2007

July 1, 2006 - June 30, 2007
Total Number of Complaints Opened - 702
Total Number of Violations - 1129
(A complaint may contain multiple violations)
Revised May 2009*



# FISCAL YEAR 2006

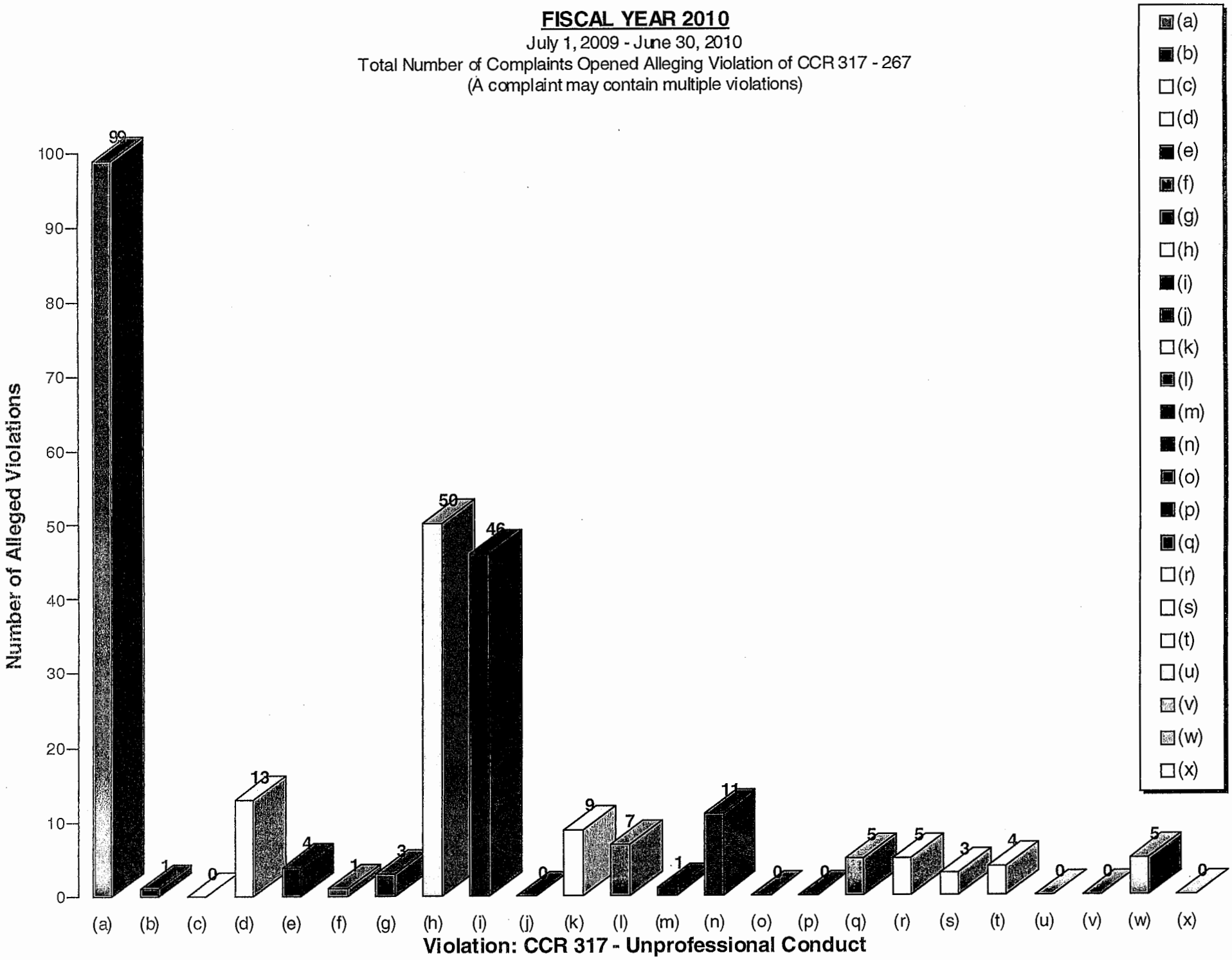
July 1, 2005 - June 30, 2006
Total Number of Complaints Opened - 764
Total Number of Violations - 960
(A complaint may contain multiple violations)

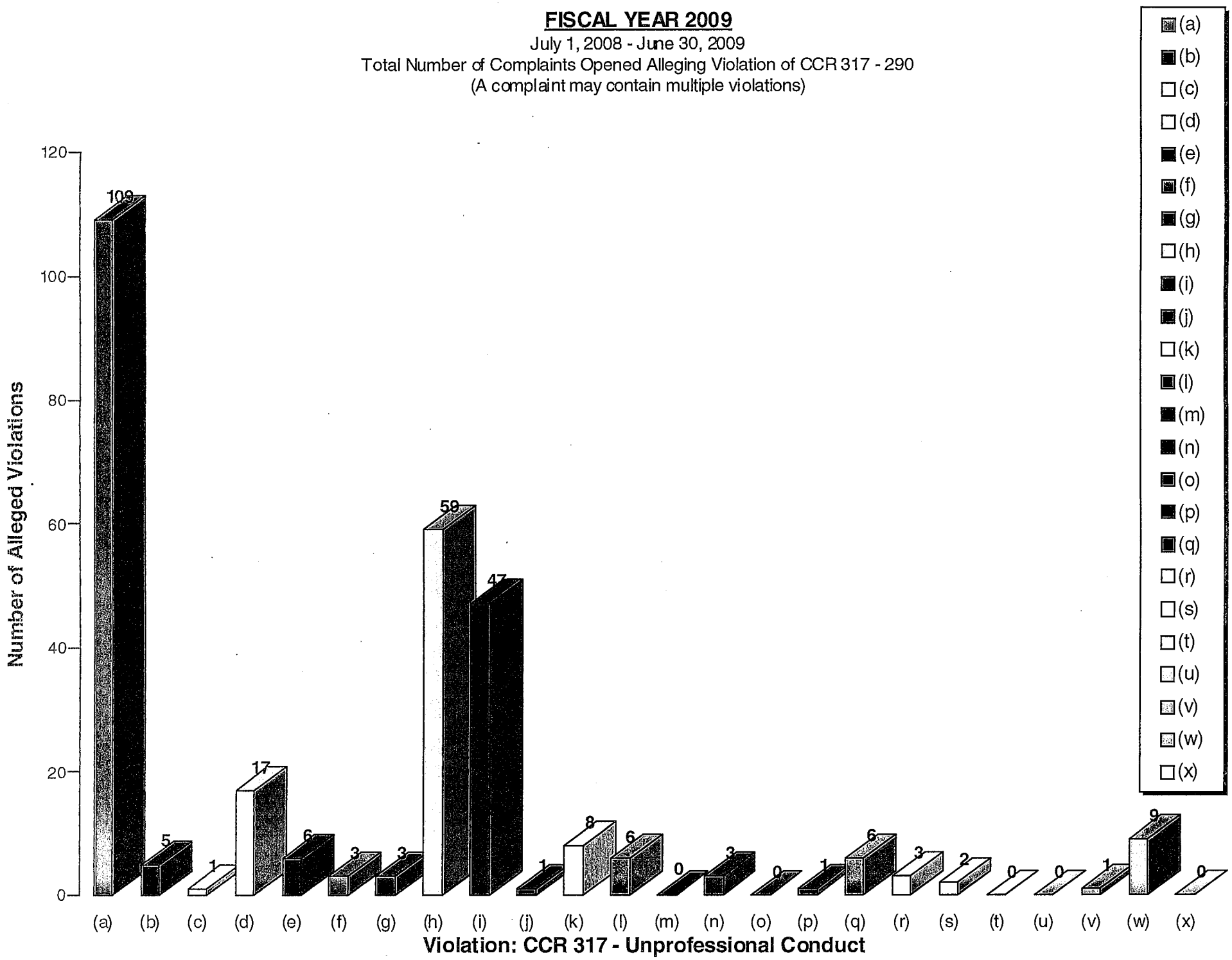


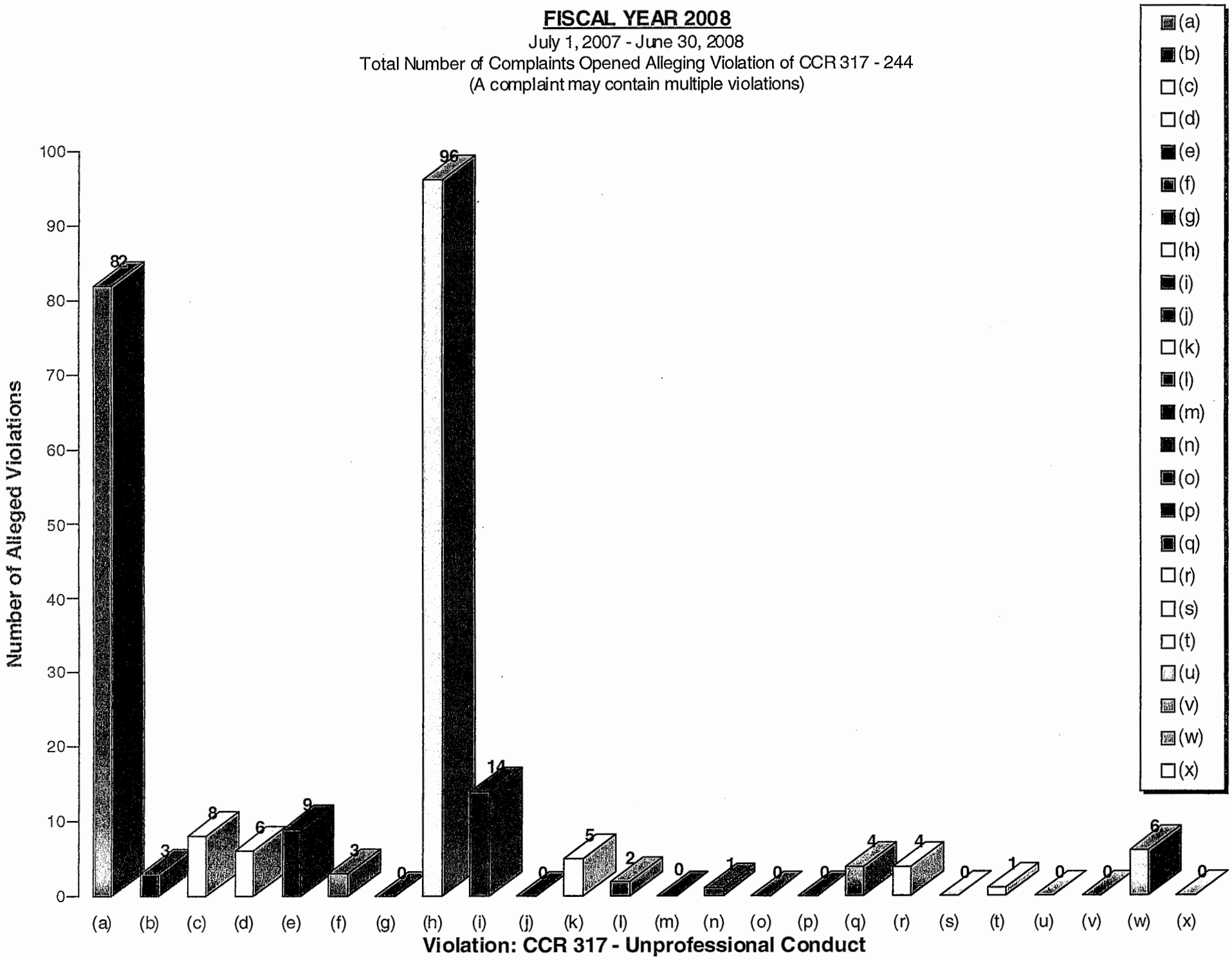
# Violation Codes/Descriptions

## California Code of Regulations (CCR) Section 317 – Unprofessional Conduct:

(a) Gross Negligence
(b) Repeated Negligent Acts
(c) Incompetence
(d) Excessive Treatment
(e) Conduct Endangering Public
(f) Administering to Oneself Drugs/Alcohol
(g) Conviction of a Crime Related to Chiropractic Duties
(h) Conviction of a Crime Involving Moral Turpitude/Physical Violence/etc.
(i) Conviction of a Crime Involving Drugs or Alcohol
(j) Dispensing Narcotics/Dangerous Drugs/etc.
(k) Moral Turpitude/Corruption/etc
(l) False Representation
(m) Violation of the ACT/Regulations
(n) False Statement Given in Connection with an Application for Licensure
(o) Impersonating an Applicant
(p) Illegal Advertising related to Violations of Section 17500 BP
(q) Fraud/Misrepresentation
(r) Unauthorized Disclosure of Patient Records
(s) Employment/Use of Cappers or Steerers
(t) Offer/Receive Compensation for Referral
(u) Participate in an Illegal Referral Service
(v) Waiving Deductible or Co-Pay
(w) Fail to Refer Patient to Physician/Surgeon/etc.
(x) Offer or Substitution of Spinal Manipulation for Vaccination


FISCAL YEAR 2010
July 1, 2009 - June 30, 2010
Total Number of Complaints Opened Alleging Violation of CCR 317 - 267
(A complaint may contain multiple violations)
Number of Alleged Violations
0
10
20
30
40
50
60
70
80
90
100
99
1
0
13
4
1
3
50
46
0
9
7
1
11
0
0
5
5
3
4
0
0
5
0
(a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x)
Violation: CCR 317 - Unprofessional Conduct
(a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x)


FISCAL YEAR 2009
July 1, 2008 - June 30, 2009
Total Number of Complaints Opened Alleging Violation of CCR 317 - 290
(A complaint may contain multiple violations)
Number of Alleged Violations
0
20
40
60
80
100
120
109
5
1
17
6
3
3
59
47
1
8
6
0
3
0
1
6
3
2
0
0
1
9
0
(a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x)
Violation: CCR 317 - Unprofessional Conduct
(a)
(b)
(c)
(d)
(e)
(f)
(g)
(h)
(i)
(j)
(k)
(l)
(m)
(n)
(o)
(p)
(q)
(r)
(s)
(t)
(u)
(v)
(w)
(x)


FISCAL YEAR 2008
July 1, 2007 - June 30, 2008
Total Number of Complaints Opened Alleging Violation of CCR 317 - 244
(A complaint may contain multiple violations)
Number of Alleged Violations
0
10
20
30
40
50
60
70
80
90
100
82
3
8
6
9
3
0
96
14
0
5
2
0
1
0
0
4
4
0
1
0
0
6
0
(a)
(b)
(c)
(d)
(e)
(f)
(g)
(h)
(i)
(j)
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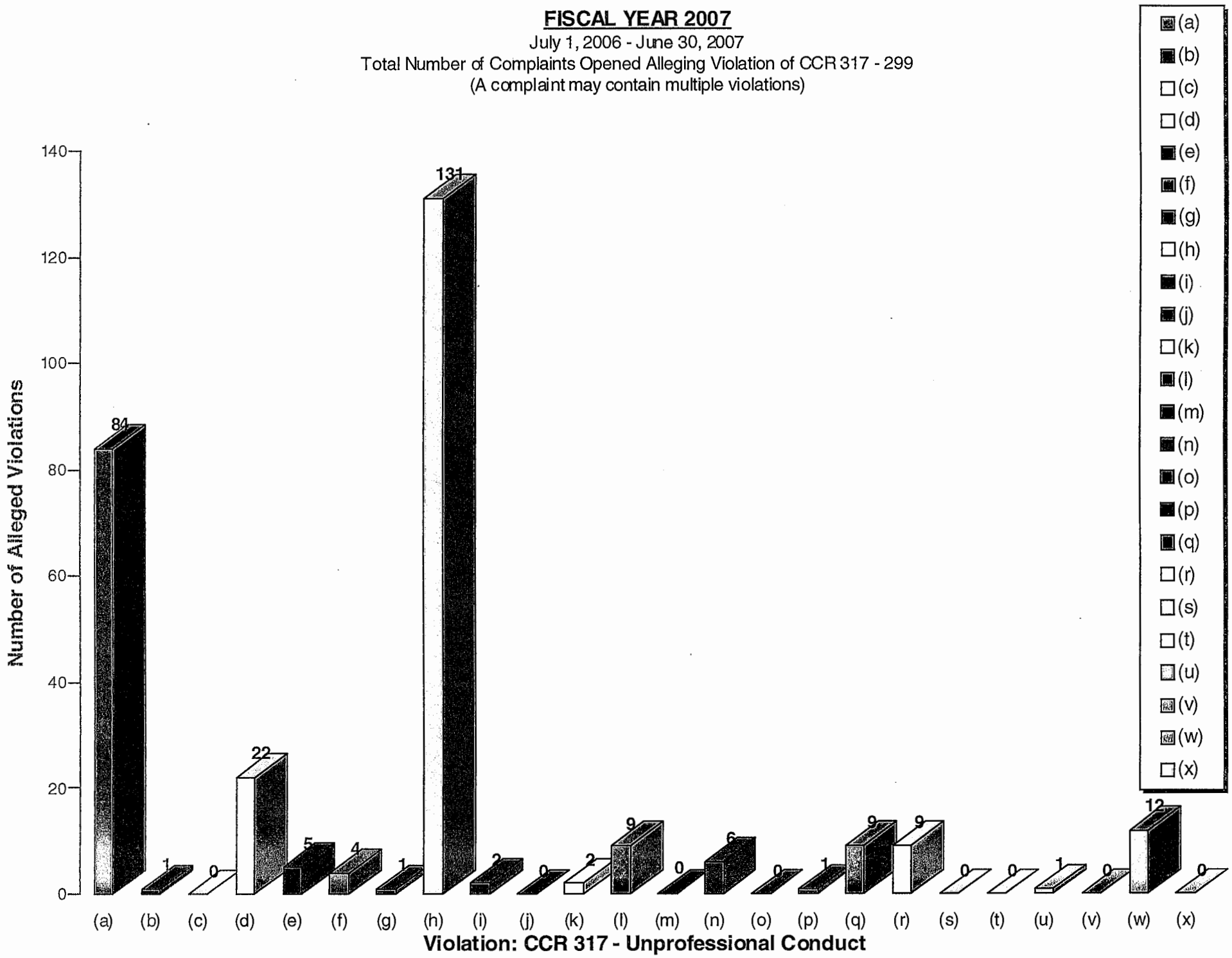
(u)
(v)
(w)
(x)
Violation: CCR 317 - Unprofessional Conduct


FISCAL YEAR 2007
July 1, 2006 - June 30, 2007
Total Number of Complaints Opened Alleging Violation of CCR 317 - 299
(A complaint may contain multiple violations)
Number of Alleged Violations
0
20
40
60
80
100
120
140
84
1
0
22
5
4
1
131
2
0
2
9
0
6
0
1
9
9
0
0
1
0
12
0
(a)
(b)
(c)
(d)
(e)
(f)
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(h)
(i)
(j)
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(l)
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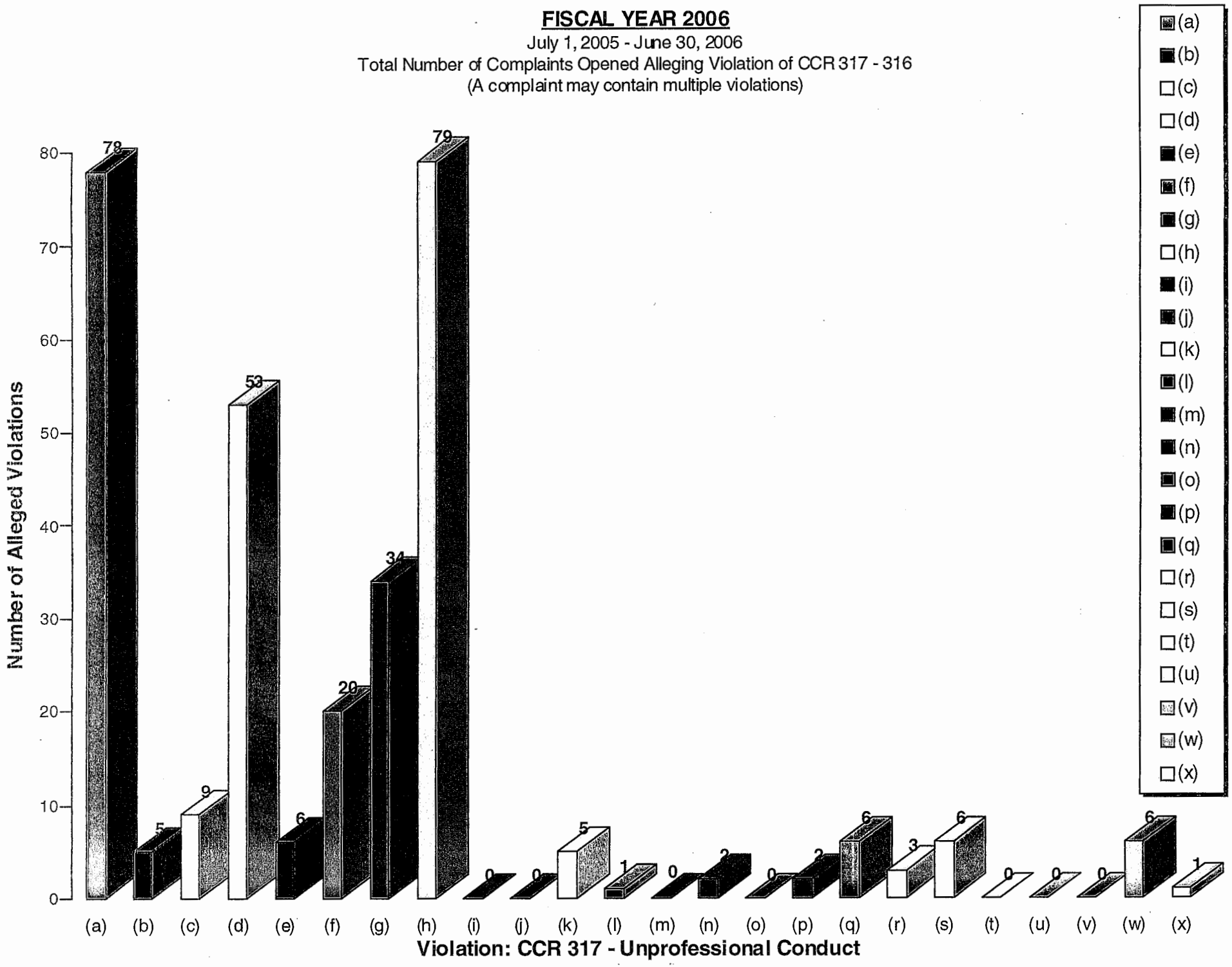
(u)
(v)
(w)
(x)
Violation: CCR 317 - Unprofessional Conduct


FISCAL YEAR 2006
July 1, 2005 - June 30, 2006
Total Number of Complaints Opened Alleging Violation of CCR 317 - 316
(A complaint may contain multiple violations)
Number of Alleged Violations
0
10
20
30
40
50
60
70
80
78
5
9
53
6
20
34
79
0
0
5
1
0
2
0
2
6
3
6
0
0
0
6
1
(a)
(b)
(c)
(d)
(e)
(f)
(g)
(h)
(i)
(j)
(k)
(l)
(m)
(n)
(o)
(p)
(q)
(r)
(s)
(t)
(u)
(v)
(w)
(x)
Violation: CCR 317 - Unprofessional Conduct

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | ARNOLD SCHWARZENEGGER, GOVERNOR

# MEMORANDUM

**Date:** July 6, 2010

**To:** **Board Members**

**From:** Robert Puleo
Interim Executive Officer

**Subject:** **Ratification of Formerly Approved Doctors of Chiropractic for Licensure**

This is to request that the Board ratify the attached list of individuals as Doctors of Chiropractic at the July 29, 2010, public meeting.

Between May 1, 2010 and June 30, 2010, staff reviewed and confirmed that the applicants met all statutory and regulatory requirements.

If you have any questions or concerns, please contact me at your earliest opportunity.

# Approval By Ratification of Formerly Approved License Applications
## May 1, 2010 – June 30, 2010

| Name (First, Middle, Last) | | | Date Issued | DC# |
|---|---|---|---|---|
| Hedie | | Adamous | 5/5/2010 | **31646** |
| Judith | Deborah | Bidgood | 5/5/2010 | **31647** |
| Pamela | Ann | Brown | 5/5/2010 | **31648** |
| Garretson | VanBuren | Fritts | 5/5/2010 | **31649** |
| William | Todd | McDougall | 5/5/2010 | **31650** |
| Bradley | Gene | Mouroux | 5/5/2010 | **31651** |
| Lance | Havens | Cohen | 5/11/2010 | **31652** |
| Sravanthi | | Dakoji | 5/11/2010 | **31653** |
| Jorge | Alfredo | Guevara | 5/11/2010 | **31654** |
| Nicole | Christine | Hoover | 5/11/2010 | **31655** |
| Rachelle | Marie | Mulford | 5/11/2010 | **31656** |
| Won | Woo | Park | 5/11/2010 | **31657** |
| Sheena | | Sohl | 5/11/2010 | **31658** |
| Jimmy | H | Yu | 5/11/2010 | **31659** |
| Holli | Ethel | Banes | 5/18/2010 | **31660** |
| Stephen | Kyle | Banes | 5/18/2010 | **31661** |
| Christopher | David | Bolduc | 5/18/2010 | **31662** |
| Ryan | Hyojin | Choi | 5/18/2010 | **31663** |
| Derek | Steven | Anderson | 5/25/2010 | **31664** |
| Valerie | Ann | Barsom | 5/25/2010 | **31665** |
| Kenneth | Chien-Yu | Chen | 5/25/2010 | **31666** |
| Katherine | Elizabeth | Drake | 5/25/2010 | **31667** |
| Jannet | Karina | Gonzalez | 5/25/2010 | **31668** |
| Jennifer | | Huang | 5/25/2010 | **31669** |
| Kyle | Matthew | Knox | 5/25/2010 | **31670** |
| Christopher | Don | Sanchez | 5/27/2010 | **31671** |
| Matthew | Todd | Scott | 5/27/2010 | **31672** |
| Cheuk-Fung | | Siu | 5/27/2010 | **31673** |
| Arin | | Broosan | 5/28/2010 | **31674** |
| Michael | | Grigoriou | 5/28/2010 | **31675** |
| Angela | Maricela | Johnson | 5/28/2010 | **31676** |
| Darren | Scott | Sheldon | 6/3/2010 | **31677** |
| Timothy | Alan | Smith | 6/3/2010 | **31678** |
| Christopher | Michael | Tosh | 6/3/2010 | **31679** |
| Micah | Ryan | White | 6/3/2010 | **31680** |

| | | | | |
|---|---|---|---|---|
| Yoon-Kyung | Judy | Woo | 6/3/2010 | **31681** |
| Sean | Patrick | O'Grady | 6/9/2010 | **31682** |
| Lisa | Marie | Prian | 6/9/2010 | **31683** |
| Jaromy | Justin | Bell | 6/14/2010 | **31684** |
| Jon | Aaron | Christensen | 6/14/2010 | **31685** |
| Joseph | Bassig | Ibe | 6/14/2010 | **31686** |
| Sina | | Khaneki | 6/14/2010 | **31687** |
| Michiteru | | Koike | 6/14/2010 | **31688** |
| Michael | Thomas | Marks | 6/14/2010 | **31689** |
| Deepak | Mohan | Moosad | 6/14/2010 | **31690** |
| Craig | Emory Ryan | Donovan | 6/16/2010 | **31691** |
| Aaron | Thomas | Gleeson | 6/16/2010 | **31692** |
| Jordan | Mathew | Gray | 6/16/2010 | **31693** |
| Harold | George | Heeder Jr. | 6/16/2010 | **31694** |
| Stanton | Michael | Hom | 6/16/2010 | **31695** |
| Michael | Thomas | Rogerson | HOLD | **31696** |
| Martin | Luke | Sanford | 6/16/2010 | **31697** |
| Donnatila | Dayao | Sapiandante | 6/17/2010 | **31698** |
| Jin | Wan | Pak | 6/17/2010 | **31699** |
| Shingo | | Sasaki | 6/17/2010 | **31700** |
| Alina | Tatiana | Bistrain Braga | 6/24/2010 | **31701** |
| Lacey | Nicole | Collins | 6/24/2010 | **31702** |
| Kevin | John | Cressey | 6/24/2010 | **31703** |
| Christopher | Andrew | Herrera | 6/24/2010 | **31704** |
| Bharat | | Jain | 6/24/2010 | **31705** |
| James | Myong | Kim | 6/24/2010 | **31706** |
| Victor | Bin Shiu | Lee | 6/24/2010 | **31707** |
| Brittany | Wemmer | Patton | 6/25/2010 | **31708** |
| Bernardo | | Perez III | 6/25/2010 | **31709** |
| Satomi | | Sunaga | 6/25/2010 | **31710** |
| Darlene | Tran | Van | 6/25/2010 | **31711** |
| Yuko | | Yamashita | 6/25/2010 | **31712** |
| Michael | Lee | Getting | 7/8/2010 | **31713** |
| Annette | | Baghdasarian | 6/29/2010 | **31714** |
| Monica | Brooke | Egan | 6/29/2010 | **31715** |
| Derek | Alan | Hacke | 6/29/2010 | **31716** |
| Ian | Matthew | Hoffman | 6/29/2010 | **31717** |
| Daniel | Hermann | Kempff | 6/29/2010 | **31718** |
| Chie | | Kigawa | 6/29/2010 | **31719** |
| Lindsay | Alice | McCarthy | 6/29/2010 | **31720** |
| Anita | Gail | Morgenstern | 6/29/2010 | **31721** |

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | ARNOLD SCHWARZENEGGER, GOVERNOR

# MEMORANDUM

**Date:** June 9, 2010

**To:** BOARD MEMBERS

**From:** Robert Puleo
Interim Executive Officer

**Subject:** **Ratification of Formerly Approved Continuing Education Providers**

This is to request that the Board ratify the continuing education provider at the public meeting on July 29, 2010.

Staff reviewed and confirmed that the applicant met all statutory and regulatory requirements.

| CONTINUING EDUCATION PROVIDERS | DATE APPROVED |
|---|---|
| 1. Jose L. Serrano, D.C. | 05/25/10 |
| 2. William Ruch, D.C. | 06/9/10 |

If you have any questions or concerns, please contact me at your earliest opportunity.

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | ARNOLD SCHWARZENEGGER, GOVERNOR

# MEMORANDUM

**Date:** July 19, 2010

**To:** **Board Members**

**From:** Robert Puleo
Interim Executive Officer

**Subject:** **Ratification of Denied License Applications of Doctors of Chiropractic**

The Board of Chiropractic Examiners (Board) denies licensure to applicants who do not meet all statutory and regulatory requirements for a chiropractic license in California. An applicant has 60-days after the denial is issued to appeal the decision. If the applicant does not submit an appeal to the Board, the denial is upheld.

Between May 1, 2010 and June 30, 2010, staff reviewed and confirmed that one (1) applicant did not meet all statutory and regulatory requirements for licensure. The applicant has appealed the decision and staff is working with the Attorney General's office on this appeal.

At this time, there is no ratification necessary.

If you have any questions or concerns, please contact me at your earliest opportunity.

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | ARNOLD SCHWARZENEGGER, GOVERNOR

# MEMORANDUM

**Date:** July 19, 2010

**To:** **Board Members**

**From:** Robert Puleo
Interim Executive Officer

**Subject:** Recommendation to Waive Two Year Requirement on Restoration of a Cancelled License – Chiropractic Initiative Act, Section 10(c)

At this time, there is no ratification necessary for the two year requirement on a Restoration of a Cancelled License

If you have any questions or concerns, please contact me at your earliest opportunity.

**Board of Chiropractic Examiners**
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
CA Relay Service TT/TDD (800) 735-2929
Consumer Complaint Hotline (866) 543-1311
http://www.chiro.ca.gov

# NOTICE OF PUBLIC MEETING – CORRECTED COPY
# PUBLIC RELATIONS COMMITTEE

**July 8, 2010**
**9:30 a.m.**
**2525 Natomas Park Drive, Suite 100**
**Sacramento, CA 95833**

## AGENDA

1. **CALL TO ORDER**

2. **Approval of Minutes**
   March 18, 2010

3. **Development of Consumer Education Material**

4. **Web Design**

5. **Enhancing Communication with Licensees and the Public**

6. **PUBLIC COMMENT**

7. **FUTURE AGENDA ITEMS**

8. **ADJOURNMENT**

## PUBLIC RELATIONS COMMITTEE
Frederick Lerner, D.C., Chair
Jeffrey Steinhardt, D.C.

***The Board of Chiropractic Examiners' paramount responsibility is to protect California consumers from the fraudulent, negligent, or incompetent practice of chiropractic care.***

A quorum of the Board may be present at the Committee meeting. However, Board members who are not on the committee may observe, but may not participate or vote. Public comments will be taken on agenda items at the time the specific item is raised. The Committee may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at **www.chiro.ca.gov.**

The meeting is accessible to persons with physically disabilities. If a person needs disability-related accommodations or modifications in order to participate in the meeting, please make a request no later than five working days before the meeting to the Board by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or sending a written request to that person at the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Requests for further information should be directed to Ms. Valencia at the same address and telephone number.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

**Board of Chiropractic Examiners**
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
CA Relay Service TT/TDD (800) 735-2929
Consumer Complaint Hotline (866) 543-1311
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# NOTICE OF PUBLIC MEETING
# LEGISLATION/REGULATION COMMITTEE

**July 8, 2010**
**Upon Adjournment of the Enforcement Committee Meeting**
**2525 Natomas Park Drive, Suite 100**
**Sacramento, CA 95833**

## AGENDA

1. **CALL TO ORDER**
2. **Satellite Office Proposed Regulations**
3. **Review CCR Section 302 (Practice of Chiropractic)**
4. **Review CCR Section 308 (Display of License)**
5. **Informed Consent**
6. **PUBLIC COMMENT**
7. **FUTURE AGENDA ITEMS**
8. **ADJOURNMENT**

## LEGISLATION/REGULATION COMMITTEE
Frederick Lerner, D.C., Chair
Francesco Columbu, D.C.

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# NOTICE OF PUBLIC MEETING
# ENFORCEMENT COMMITTEE

**July 8, 2010**
**Upon Adjournment of the Public Relations Committee Meeting**
**2525 Natomas Park Drive, Suite 100**
**Sacramento, CA 95833**
**(916) 263-5355**

## AGENDA

1. **CALL TO ORDER**

2. **Approval of Minutes**
   May 6, 2010

3. **Enforcement Oversight**

4. **Enforcement Process Improvements**

5. **Expert Reviewer and Witness Training**

6. **Proposed Regulations Based on Provisions of SB 1111 (Negrete-McLeod)**

7. **PUBLIC COMMENT**

8. **FUTURE AGENDA ITEMS**

9. **ADJOURNMENT**

**ENFORCEMENT COMMITTEE**
Hugh Lubkin, D.C., Chair
Francesco Columbu, D.C.
Frederick Lerner, D.C.

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The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or e-mail marlene.valencia@chiro.ca.gov or send a written request to the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

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## Review of Written Comments Received During the 45 Day Comment Period
## Continuing Education Proposed Regulations

### Background:

At a public meeting on March 18, 2010, the Board of Chiropractic Examiners (BCE) approved the text of the proposed regulations for Continuing Education (CE). Board staff filed the proposed rulemaking package with the Office of Administrative Law (OAL) on March 30, 2010. A public hearing was not scheduled, nor was one requested. A summary of the oral and written comments received during the 45-day comment period are presented below.

### Action Requested:

Staff requests the Board to review and consider the public comments received during the 45-day public comment period to determine whether modifications to the proposed language are necessary or the rulemaking package is ready to be filed with OAL.

### Written Comments

**Comment 1:** J. Ray Weltch, D.C. opposes the proposed regulatory language for CE and provided the following comments:
**a)** Section 360: The new fees imposed upon providers will result in an economic hardship. What are the providers getting for this fee?
**b)** Section 361(a): His seminar has been approved for distance learning for the disabled. What effect, if any, will this have on his seminar?

**Staff Suggested Responses to Comment 1(a) & (b):** Staff recommends the board reject these comments. The fees associated with CE provider and course approval are necessary to cover the board's costs to review and process CE applications and provide appropriate oversight of the CE program. The proposed regulations will increase the demand for CE and give providers the ability to offer a wider variety of courses which may result in increased revenue to providers and offset the fees associated with the CE application process. Providers approved prior to the implementation of the proposed regulations will be required to follow the renewal requirements and provider responsibilities outlined in Sections 362 and 363 for providers and courses.

**c)** Section 361(a)(13) – DC's do not dispense drugs and should not be responsible for their use.

**Staff Suggested Response:** Staff agrees that pharmacology is not within the chiropractic scope of practice; however, California Code of Regulations Section 302 authorizes doctors of chiropractic to

employ the use of vitamins, food supplements, food for special dietary use, or proprietary medicines, so long as the substances are not included in materia medica as defined in Section 13 of the Business and Professions Code (BPC). Some vitamins and supplements may have adverse interactions with medications; therefore, staff believes that education on this topic will result in safer practice by doctors of chiropractic and enhanced consumer protection. Further, there is a considerable level of risk to the public as health care advances, and it is important that chiropractors are educated on when it is appropriate to refer patients.

**d)** Section 361(b) – Allowing outside providers to be approved for chiropractors without BCE approval is dangerous and prejudiced towards providers approved by the board.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The intent of this section is to provide licensees with the broadest scope of CE options in order to enhance licensees' knowledge so that they provide safer treatment of patients and referrals when necessary. CE credit will be granted for courses on topics listed in Section 361 which have been subjected to a review and approval process by the California Department of Industrial Relations, Division of Workers Compensation or any healing arts board under Division 2 of the Business and Professions Code.

**e)** Section 362(c) and (d) – Requiring providers to apply every 2 years when there have been no changes to the seminar is robbery. He believes these fees should also be collected from CE providers who are not approved by the board.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Biennial CE provider renewal fees will support the boards cost to monitor the CE program more closely. CE providers approved by the California Department of Industrial Relations, Division of Workers Compensation (DIRDWC) or any healing arts board under Division 2 of the Business and Professions Code are subject to fees and requirements of the approving agency. The Board of Chiropractic Examiners (BCE) does not review and approve applications for providers approved by the DIRDWC or other healing arts boards or bureaus; therefore, the board cannot assess additional fees upon them for work we do not render.

**f)** Section 363(c)(2) – He opposes basing CE credit on 50 minutes of class participation per every hour and asserts that this practice is unreasonable, disruptive and fails to protect the public.

**Staff Suggested Response:** The proposed regulations state that CE credit shall be based on <u>at least</u> 50 minutes of participation per every 60 minutes and allows class breaks to be given at the discretion of the instructor. Other healing arts boards offer a 50-minute academic hour for their CE courses; therefore, this requirement is neither unprecedented nor without merit. This requirement ensures licensees are given CE credit for a prescribed amount of instruction in a subject area specified in Section 361.

**g)** Section 366 – Dr. Weltch doesn't oppose board audits of the class; however, he believes the provider should receive payment for the course if the auditor receives CE credit for attending the course.

**Staff Suggested Response:** Staff agrees and recommends the board accept this comment. Auditors will not earn CE credit for their participation, and therefore, should not be required to pay course fees to attend.

**h)** Section 371(b)(1) – There should be a 48-hour CE requirement cap regardless of when a DC's license expired.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The proposed license renewal regulations offer more options than what is currently in regulation. If the licensee does not choose to complete the required CE hours, there are two other options available: (1) provide proof of practice on an active license and CE in another state; or (2) pass the National Board of Chiropractic Examiners (NBCE) Special Purposes Examination for Chiropractic examination within 6 months prior to submission of their license restoration application.

**Comment 2:** Concerned Chiropractor opposes the proposed CE regulatory changes stating that they lack clarity and necessity. All comments were submitted during previous comment periods of our former withdrawn CE package. The sections quoted in the letter are not consistent with the section numbers in the proposed language. The following answers reflect the board's position at that time and the correct sections wherein the verbiage is currently contained. Comments are as follows:

**a)** Section 356.5 - The proposed biannual renewal requirement for CE providers is not needed and current regulation is less expensive and more efficient.

**Staff Suggested Response:** Section 356.5 has been renumbered to Section 362 in the proposed language. The board disagrees and rejects this comment. Biennial CE provider renewal fees will support the boards cost to review CE applications and closely monitor the CE program.

**b)** Section 356 – Increasing the CE requirement is not necessarily better, the categories are arbitrary, confusing and no change is needed. Chiropractic does not have the vast advent of pharmacology and surgical procedures that would warrant additional hours every year. There is nothing written in subparagraph 13 in the modified text; breaking down topics narrows the range of topics and puts limitations on CE instructors; recommends adding a category titled "Other".

**Staff Suggested Response:** Section 356 has been renumbered to Section 361 in the proposed language. The board disagrees and rejects this comment. The board does not have the authority to change the Chiropractic Initiative Act. CE is addressed in the board's regulations which the board has the authority to change through the rulemaking process.
Staff agrees that pharmacology is not within the chiropractic scope of practice; however, California Code of Regulations Section 302 authorizes doctors of chiropractic to employ the use of vitamins, food supplements, food for special dietary use, or proprietary medicines, so long as the substances are not included in materia medica as defined in Section 13 of the Business and Professions Code. Some vitamins and supplements may have adverse interactions with medications; therefore, staff believes that education on this topic will result in safer practice by doctors of chiropractic and enhanced consumer protection. Further, there is a considerable level of risk to the public as health care advances, and it is important that chiropractors are educated on when it is appropriate to refer patients. Section 361(a)(13) is currently allocated to the CE topic, Pharmacology. The category "Other" is not needed as this section provides licensees with the broadest scope of CE options including courses approved by the DIRDWC or any healing arts board under Division 2 of the Business and Professions Code.

**c)** Section 356(b)(1) & (2) – There is no clarity, necessity or consistency on why the board would allow chiropractors to take courses from other professions outside their scope of practice.

**Staff Suggested Response:** Section 356(b) has been renumbered to Section 361(b). The Board disagrees and rejects this comment. This does not remove the requirement that courses taken through providers approved by other healing arts boards or bureaus fall within the subject areas listed in subparagraphs 1-16 in Section 361. Limiting a chiropractor to taking courses specific to chiropractic does a disservice to the public and raises public safety issues. The reason for broadening the CE course choices is to broaden a chiropractor's education, improve communication and encourage referrals with other physicians. The scope of chiropractic is not broadened beyond the legal definition based on courses taken through CE. Further, there is a considerable level of risk to the public as health care advances, and it is important that chiropractors are educated on when it is appropriate to refer patients.

**d)** Section 356.5 #4 – Educational seminar materials and adjusting instruments that are included in CE instruction need to be in the seminar room.

**Staff Suggested Response:** Section 356.5 #4 has been renumbered to Section 362(e)(4). The board agrees and accepts this comment. The section was amended by the board prior to noticing the proposed regulations. The current proposed language does not prohibit the CE instructor from having educational materials or instruments which are part of the CE instruction from being in the room. This section only prohibits the display, marketing or sale of items while actual instruction is taking place. Staff recommends the board modify this section to include a statement which will not prohibit a provider from mentioning a product or service solely for educational purposes.

**e)** Commenter opposes placing restrictions on subjects such as financial management, income generation, practice building, collections, self motivation and patient recruitment.

**Staff Suggested Response:** The topic of this comment in now contained in Section 363(d). The board disagrees and rejects this comment. The purpose of CE is to keep licensees up to date on current industry standards and promote consumer protection.

**f)** Section 356.5(a) – The proposed CE provider denial and appeal process would give too much power to the Executive Officer.

**Staff Suggested Response:** Section 356.5(a) has been renumbered to Section 362(a). The board disagrees and rejects this comment. There are two levels of appeal, including an informal hearing before the Executive Officer of the board and a second hearing before the board members; therefore, the Executive Officer does not make the final decision on provider application denials or withdrawal of provider status.

**g)** Section 360 – Questions the qualifications of attendees to audit a CE program; the number of years in which a provider can lose their status for inaccurate verification is arbitrary for what may be a clerical error rather than a willful act.

**Staff Suggested Response:** Section 360 has been renumbered to Section 366. The board rejects this comment. The proposed language does not authorize attendees to audit a CE program, but rather gives audit authority to the board, which may use attendees' comments regarding courses as one part of the auditing process. Discipline for false or inaccurate verification of participation in CE courses will be relative to the severity of the violation.

**h)** Section 357 #3 – There are too many inferior distance learning programs and test takers need to be identified.

**Staff Suggested Response:** Section 357 #3 has been renumbered to Section 363.1. The board respectfully disagrees and rejects this comment. It is too difficult for providers of distance learning courses to verify the identity of the person taking the course; therefore, the responsibility of attendance verification has been placed on the licensee who signs their renewal form under penalty of perjury that they have taken the CE courses. Furthermore, the number of hours a licensee can earn through distance learning is limited to 12, unless the licensee is eligible for an exemption due to a physical disability or is on active duty with a branch of the United States armed forces as specified in Section 364. Tests are not mandatory for any CE course.

**Comment 3:** Dr. Ples J. Robertson, D.C. submitted written comments via e-mail on April 20, 2010 and May 10, 2010, opposing the proposed language to increase CE hours because it will result in an economic hardship and will not improve the profession or increase the safety to the public. Dr. Robertson states that although some CE courses will be available on-line, there are a lot of older doctors who do not have computer capabilities.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board's decision to increase CE hours is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors. Approximately 50 percent of the violations alleged in consumer complaints received by the board are related to areas which are included as mandatory CE topics in the proposed regulations. The decision to increase CE hours should not be based on economic hardship, but rather on protection of the public and raising education awareness. There is a considerable level of risk to the public as health care advances, and it's important that chiropractors are educated on when it is appropriate to refer patients. The distance learning option is not mandatory; therefore, chiropractors may choose to take advantage of the distance learning option or attend seminars in person to complete their CE requirements.

**Comment 4:** Tim O'Shea, D.C. opposes the proposed regulations stating they are unnecessary because the current CE regulations have a track record of success evidenced by the current set of rules, which has served the profession so well for many decades. He further states that this proposal will not protect the public any better than the current system, the CE categories are arbitrary and more restrictive and the fees are not necessary. Specific comments relating to the proposed regulations are as follows:

**a)** Section 360 – CE provider fees are unnecessary.

**Staff Suggested Response:** Staff disagrees that the provider fees are unnecessary and recommends the board reject this comment. The fees associated with CE provider and course approval are necessary to cover the board's costs to review and process CE applications and provide appropriate oversight of the CE program.

**b)** Section 361(a) – The entire section should be expunged with the exception of the following: Paragraph 11 (ethics and law) should be included in the "additional" category which may be taught.

**Staff Suggested Response:** Staff disagrees with this comment. Enforcement actions against doctors of chiropractic are a result of violations of the board's laws and regulations, which are covered in this topic; therefore, ethics and law should remain a mandatory category.

**c)** Section 361(a)(6) – Explain the definition of chiropractic manipulation and provide an explanation as to why it is being offered as a substitute for adjusting. He recommends the board requires a total of 8 mandatory hours and allows licensees to complete the hours in any one of, or a combination of the courses specified in subparagraphs 3, 5, 10, or 11.

**Staff Suggested Response:** The section number for this topic is referenced incorrectly and is covered under Section 361(a)(5). "Chiropractic manipulation" and "chiropractic adjustment" are interchangeable terms. The chiropractic scope of practice defined under California Code of Regulations Section 302(a)(1) states, in part, "A duly licensed chiropractor may manipulate and adjust the spinal column and other joints of the human body". Staff disagrees that this section substitutes chiropractic manipulation for chiropractic adjustment and believes this comment is irrelevant as these treatments are one and the same. Staff disagrees with the recommendation to change the mandatory hours for Ethics and Law. Enforcement actions against doctors of chiropractic are a result of violations of the board's laws and regulations which are covered in this subject area; therefore, ethics and law should remain a mandatory category as written in the proposed regulation.

**d)** Section 361(b)(2) – Dr. O'Shea opposes allowing unmonitored, blanket approval of any course already accredited by any other "healing arts board or bureau" without any scrutiny whatsoever.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The intent of this section is to provide licensees with the broadest scope of CE options in order to enhance licensees' knowledge so that they provide safer treatment of patients and referrals when necessary. CE credit will be granted for courses in subject areas listed in Section 361 which have been subjected to a review and approval process by the California Department of Industrial Relations, Division of Workers Compensation or any healing arts board under Division 2 of the Business and Professions Code.

**e)** Section 362 – The current regulation under Section 356.5(a) has been working fine for decades and should remain unchanged.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Changes to the provider approval, duties and responsibilities are needed to ensure adequate oversight of the CE program, clearly define the duties and responsibilities of providers and provide due process to applicants whose provider applications have been denied or providers whose status has been withdrawn.

**f)** Section 362(c) – The board has not made an attempt to offer rationale on the necessity of the proposed regulation requiring providers to renew every year. This requirement would further tax the limited time resources of an already overstressed board staff and would result in a net financial loss for the board. This proposal is not consistent with the long-established 5 year mentor/apprentice program which has worked well for many decades. He recommends leaving the current 5 year apprenticeship in place.

**Staff Suggested Response:** Staff disagrees with this comment. The proposed regulations do not require providers to renew every year. The proposed regulations require new providers to submit a $75 fee with an application for approval of provider status and renew their status every two years thereafter. Providers who have been approved prior to the effective date of the proposed regulations shall be required to renew their provider status 2 years after the effective date of the proposed regulations. The fees associated with CE provider status are necessary to cover the

board's costs to review and process CE applications and provide appropriate oversight of the CE program. Staff is not clear on the reference to a 5 year mentor/apprentice program. Currently, Section 356.5(b)(2) requires providers to have engaged in the business of providing education to licensed health care professionals consisting of no less than one course in each year of a five year period immediately preceding the date of application for approval by the board as a continuing education provider. Providers are not necessarily instructors of the courses they offer; therefore, the board does not believe CE providers need specific teaching experience prior to becoming an approved provider. The board believes the responsibility of the provider is to ensure instructors are appropriately trained and qualified to teach the courses offered by the provider.

**g)** Section 362(e)(1-6) – This section is repetitive and already in place now; therefore, there is no necessity for change.

**Staff Suggested Response:** Staff disagrees with this comment. Changes in the enumeration were necessary for proper placement of this Section within Article 6. Additionally, the contents of Section 362 were rewritten to clarify the application process for providers, establish an appeal process for provider applications which have been denied or provider status withdrawn, and clarify the withdrawal process including responsibilities and timelines of the Executive Officer and provider.

**h)** Section 362(f) – The way in which this section is written makes CE provider approval subjective; too much power is given to the approver and Executive Officer who are not qualified to make such decisions; language regarding "good cause" is unclear and subjective. He recommends this section to be stricken from the proposal.

**Staff Suggested Response:** Staff disagrees that CE provider approval is subjective and too much power is given to the Executive Officer, and recommends the board reject these comments. Section 362 was rewritten to make the provider approval process clearer and less subjective. There are two levels of appeal, including an informal hearing before the Executive Officer of the board and a second hearing before the board members; therefore, the Executive Officer does not make the final decision on provider application denials or withdrawal of provider status. Staff agrees that changes should be made regarding "good cause" for clarity purposes and recommends modifying the first sentence of Section 362(f) to state, "The Executive Officer, after notification, may withdraw approval of any continuing education provider for good cause, including, but not limited to, violations of any provision of the regulation or falsification of information and shall provide written notification of such action to the provider."

**i)** Section 363(b) - The way in which this section is written makes CE course approval subjective; too much power is given to the approver and Executive Officer who are not qualified to make such decisions; language regarding "good cause" is unclear and subjective. He recommends this section to be stricken from the proposal.

**Staff Suggested Response:** Staff disagrees that CE course approval is subjective and too much power is given to the Executive Officer and recommends the board reject these comments. CE topics were rewritten in Section 361 to make the course approval process clearer and less subjective. There are two levels of appeal, including an informal hearing before the Executive Officer of the board and a second hearing before the board members; therefore, the Executive Officer does not make the final decision on provider application denials of a course or withdrawal of course approval. "Good cause" for withdrawal of approval of a CE course is referred to under Section 363(f). Staff agrees that changes should be made regarding "good cause" for clarity purposes and recommends modifying the first sentence of Section 363(f) to state, "The Executive

Officer, after notification, may withdraw approval of any continuing education course for good cause, including, but not limited to, violations of any provision of the regulation or falsification of information and shall provide written notification of such action to the provider."

**j)** Section 363(c)(2) – The 10 minute break is unprecedented and without merit. All courses for licensure are based on a 50 minute academic hour. He recommends this section be deleted.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Other healing arts boards offer a 50-minute academic hour; therefore, it is neither unprecedented nor without merit.

**k)** Section 363(e) – This section is unnecessary, self evident and should be deleted.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board has received complaints from doctors of chiropractic who attended courses which did not conform to the course content advertised.

**l)** Section 363(f) – This exact same paragraph appears in two other places in the regulations and should be deleted.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Section 363(f) gives authority to the Executive Officer to withdraw approval of any CE course for good cause after approval has been granted. Section 362(f) gives similar authority to withdraw approval of a provider. Although the language may sound similar, denial and withdrawal of provider status and courses are separate actions. Denial of a CE course and/or provider is an action taken by the board prior to granting approval. Withdrawal of provider and/or course approval is an action taken by the board subsequent to granting approval.

**m)** Section 363.1 – Distance learning CE courses should be required to follow the standard accepted protocols for security and completion of accredited courses. The requirements listed in this section are unnecessary. He recommends deleting the current verbiage and replacing with, "Distance learning is approved for 12 hours from any accredited online source."

**Staff Suggested Response:** Staff disagrees with the recommendation to allow licensees to obtain CE credit for distance learning from any accredited online source. The board chooses to approve CE credit for courses taken through providers approved by the BCE, DIRDWC, or healing arts boards or bureaus under Division 2 of the Business and Professions Code and believes the requirements set forth in the proposed regulations are necessary. Staff has revised Section 363.1 to include a reference to Sections 362 and 363 regarding CE provider approval, duties and responsibilities and course approval for board consideration.

**n)** Section 366 – The board may call anyone to obtain information regarding CE courses; therefore, this section is unnecessary and should be deleted.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. This verbiage is necessary to ensure that providers and licensees are aware of the board's authority.

**o)** Section 372 – This section is redundant and unnecessary as a new regulation.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The language contained in proposed Section 372 is currently contained in Section 355.1 and gives the board authority to continue or institute a disciplinary proceeding upon a license which is suspended, expired or in forfeiture. No substantive changes were made to this section. Changes to the enumeration were necessary for proper placement within proposed Article 7.5 – License Renewal Requirements.

**Comment 5:** Dr. Robert Zeravica, D.C. opposes the proposed CE regulations stating that they do not have clear consistency or necessity for change. Billing and coding as a requirement to learn appears to be unfounded, especially for doctors of chiropractic who practice without billing third-party payors. Distance learning is an absurd way to learn chiropractic manipulative techniques.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Instruction in proper and ethical billing is justified as a required CE subject area based on the number of complaints received and licensees who are disciplined for violation of laws related to this subject. Additionally, this subject area covers accurate and effective record keeping, documentation of evaluation, and treatment and progress of a patient which are essential components that all chiropractic licensees must use in their practice. Staff agrees that chiropractic is a "hands-on event". With the exception of licensees with physical disabilities and licensees actively serving in the United States armed forces, licensees may only earn up to 12 hours through distance learning. The distance learning option gives licensees the flexibility to choose the subject and method of learning to best suit their needs. Further, licensees are not required to use distance learning to obtain CE credit.

**Comment 6:** Dr. Tamara Petersen, D.C. opposes the proposed CE regulations because they have no clarity and states that the current system is working and not broke. She would like the board to allow input from providers in the field who have been teaching and administrating CE to be part of the process to improve anything that might need improvement.

**Staff Suggested Response:** Staff disagrees that the proposed CE regulations lack clarity and the current regulations are sufficient as written, and recommends the board reject this comment. The board's decision to increase CE hours is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors. Staff agrees with the comment regarding input from CE providers. The board welcomes input from the public, including CE providers, in response to the proposed CE regulations or any other proposed regulations. Input may be sent to the board during designated comment periods or provided in person at public meetings.

**Comment 7:** Dr. Mark Cymerint, D.C. opposes the proposed CE regulations stating that the board fails to have clarity, consistency or necessity for the change. Specific comments relating to the proposed regulations are as follows:
**a)** Ethics and law should not be a required course topic as laws and regulations are available to licensees on the board website and in hard copy; mandatory topics are taught in chiropractic schools and not necessary for CE.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Although the board's laws and regulations are available to licensees, the board believes it is necessary to have mandatory courses based on complaints received by the board and administrative and disciplinary action of licensees who violate the laws and regulations. Requiring a

review of law and ethics, as well as the other proposed mandatory topics, will reinforce proper conduct of chiropractors resulting in a safer practice and protection of the public.

**b)** Pharmacology is against the chiropractic scope of practice and is in violation of the Chiropractic Initiative Act.

**Staff Suggested Response:** Staff agrees that pharmacology is not within the chiropractic scope of practice; however, California Code of Regulations Section 302 authorizes doctors of chiropractic to employ the use of vitamins, food supplements, food for special dietary use, or proprietary medicines, so long as the substances are not included in materia medica as defined in Section 13 of the Business and Professions Code. Some vitamins and supplements may have adverse interactions with medications; therefore, staff believes that education on this topic will result in safer practice by doctors of chiropractic and enhanced consumer protection. Further, there is a considerable level of risk to the public as health care advances, and it is important that chiropractors are educated on when it is appropriate to refer patients.

**c)** Section 360 – This change is not consistent with other chiropractic boards or professional boards. The current regulation is less expensive and much more efficient.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The changes in continuing education fees are necessary to cover the board's costs to review and process CE applications and provide appropriate oversight of the CE program.

**d)** Section 361 - There are no cited facts, written studies, or expert witness opinions that prove that more hours for a chiropractor per year are better; chiropractic does not have the vast advent of pharmacology and surgical procedures that warrant additional hours; and CE subjects and categories are arbitrary.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board's decision to increase CE hours is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors. Approximately 50 percent of the violations alleged in consumer complaints received by the board are related to areas which are included as mandatory CE topics in the proposed regulations. Further, there is a considerable level of risk to the public as health care advances, and it is important that chiropractors are educated on when it is appropriate to refer patients. The board's proposal to increase the CE requirement to 24 hours puts doctors of chiropractic on a closer level with other licensed health care professionals.

The hourly requirements and categories were decided upon by the board members with collaboration from the CE working group, consisting of various stakeholders, the CE Committee, and input from other parties. The board chose to require two hours in ethics and law based on complaints received by the board. The remaining mandatory subjects were chosen because they are core duties of the chiropractor. Elective subjects were chosen in the interest of protecting the public.

**e)** Section 356 (#1 & 2) – There is no clarity, necessity or consistency on why the board would allow chiropractors to take courses from other professions outside their scope of practice; wants to know how attending board meetings for CE will enhance ones knowledge of current medical conditions and feels this option should not be allowed for CE credit; there is nothing written in

subparagraph 13 in the modified text; breaking down topics narrows the range of topics and puts limitations on CE instructors; proposes adding a category titled "Other".

**Staff Suggested Response:** The Board disagrees and rejects these comments. This does not remove the requirement that courses taken through providers approved by other healing arts boards or bureaus fall within the topics listed in subject areas 1-16 in Section 361. Limiting a chiropractor to taking courses specific to chiropractic does a disservice to the public and raises public safety issues. The scope of chiropractic is not broadened beyond the legal definition based on courses taken through CE. Further, there is a considerable level of risk to the public as health care advances, and it is important that chiropractors are educated on when it is appropriate to refer patients. Board meetings are a valuable source of information for chiropractors. Agenda items include coverage of legislation directly affecting the Board or the industry, the promulgation of regulations affecting chiropractors licensed in California, and petitioner hearings for chiropractors whose license has been placed on probation or revoked for violation of the board's laws and regulations. Additionally, attendees are invited to provide public comment on agenda items or any other areas of concern for board consideration. Subparagraph 13 is designated to the subject of pharmacology. The category "Other" is not needed as this section provides licensees with the broadest scope of CE options including courses approved by the DIRDWC or any healing arts board under Division 2 of the Business and Professions Code.

**f)** Section 362(e) – This provision does not address changes in staff and the steps to be taken in the event of a change; e-mail addresses are considered private by most people and not available to be given out by all; vendors who subsidize the course may change from week to week and location to location; therefore, providers should not be required disclose this information.

**Staff Suggested Response:** Staff believes the comment regarding changes in staff is irrelevant as this information is gathered on an annual basis on the course application. Staff disagrees that providers should not be required to provide the board with e-mail addresses of attendees. E-mail is a widely accepted standard form of communication which is less costly than sending communication through the US Postal Service. E-mail addresses given to the board will be considered private and will not be distributed to other entities. Staff disagrees that the requirement to provide vendor information to attendees should be eliminated. This section does not impede changes in vendors. Any vendor changes can be disclosed to attendees at the time the course is given.

**g)** Section 362 (a) – The provider denial and appeal process gives too much power to the Executive Officer and regulation fails to define "good cause".

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. There are two levels of appeal, including an informal hearing before the Executive Officer of the board and a second hearing before the board members; therefore, the Executive Officer does not make the final decision on provider application denials or withdrawal of provider status.

**h)** Section 363 – Dr. Cymerint opposes placing restrictions on subjects such as financial management, income generation, practice building, collections, self motivation and patient recruitment.

**Staff Suggested Response:** The board disagrees and rejects this comment. The purpose of CE is to keep licensees up to date on current industry standards and promote consumer protection.

**i)** Section 363.1 - Chiropractic has, is, and always will be a hands-on event. There are still too many inferior distance learning CE programs and security seems to be an issue. Identifying the test taker is also an issue.

**Staff Suggested Response:** Staff agrees that chiropractic is a "hands-on event". With the exception of licensees with physical disabilities and licensees actively serving in the United States armed forces, licensees may only earn up to 12 hours through distance learning. The distance learning option gives licensees the flexibility to choose the subject and method of learning to best suit their needs. Further, licensees are not required to use distance learning to obtain CE credit. The proposed regulations will allow the board to have adequate oversight over the CE program. Staff disagrees that security is an issue with distance learning. It is too difficult for providers of distance learning courses to verify the identity of the person taking the course; therefore, the responsibility of attendance verification has been placed on the licensee who signs their renewal form under penalty of perjury that they have taken the CE courses. Furthermore, the number of hours a licensee can earn through distance learning is limited to 12, unless the licensee is eligible for an exemption due to a physical disability or is on active duty with a branch of the United States armed forces as specified in Section 364. Tests are not mandatory for any CE course.

**j)** Section 366 – Dr. Cymerint questions the qualifications of attendees to audit a CE program; the number of years in which a provider can lose their status for inaccurate verification is arbitrary for what may be a clerical error rather than a willful act.

**Staff Suggested Response:** The proposed language does not authorize attendees to audit a CE course, but rather gives audit authority to the board, which may use attendees' comments regarding courses as one part of the auditing process. Discipline for false or inaccurate verification of participation in CE courses will be relative to the activity.

**k)** Section 356.5 #4 – Educational seminar materials and adjusting instruments that are included in CE instruction need to be in the seminar room.

**Staff Suggested Response:** The board agrees and accepts this comment. The section was amended by the board prior to noticing the proposed regulations. The current proposed language does not prohibit the CE instructor from having educational materials or instruments which are part of the CE instruction from being in the room. This section only prohibits the display, marketing or sale of items while actual instruction is taking place. Staff recommends the board modify this section to include a statement which will not prohibit a provider from mentioning a product or service solely for educational purposes.

**l)** What does it mean that this regulation does not mandate the use of specific technologies or equipment? Why is this statement in the Initial Statement of Reasons?

**Staff Suggested Response:** Government Code Section 11346.2 requires the Initial Statement of Reasons to include the purpose of the proposed regulations, the factual basis/rationale, underlying data, business impact, requirements for specific technologies or equipment, and a description of alternatives. The Initial Statement of Reasons must specify whether the proposed regulation would mandate the use of specific technologies or equipment, and if so, identify why such mandates or prescriptive standards are required. The board has determined the proposed CE regulations do not require the use of specific technology or equipment.

**13)** Section 371 – Requiring inactive licensees to retroactively take all CE units for each year their license was inactive is prejudiced and financially burdensome to the licensee.

**Staff Suggested Response:** Staff agrees and recommends the board amend this section to be consistent with Business and Professions Code (BPC) § 704.

**14)** There is no reason, clarity, consistency, or necessity for a regulatory change in forms.

**Staff Suggested Response:** Staff disagrees with this comment. Changes to the forms were necessary to include the fees and requirements set forth in the proposed regulations.

**Comment 8:** Dr. Jeremy Jones, D.C. agrees with Dr. Cymerint's comments regarding the proposed CE regulations. Dr. Jones states he has received better presentations from individuals such as Dr. Cymerint and Dr. O'Shea and believes these changes are geared at removing individuals from providing CE. Dr. Jones's letter restates all concerns verbatim in Dr. Cymerint's letter.

**Staff Suggested Response:** Staff disagrees that the purpose of the proposed regulations is to remove individuals from providing CE and is unclear of the basis of this comment as specific reasons or examples were not provided by Dr. Jones. The purpose of the proposed regulations is to provide doctors of chiropractic with the broadest scope of CE options which will enhance their knowledge as diagnosticians and result in a safer practice and enhanced consumer protection. This proposal will increase the demand for CE and give providers the ability to offer a wider variety of courses. All other concerns were raised by Dr. Cymerint and previously addressed in Comment 7.

**Comment 9:** Dr. Terry Rich, D.C. opposes the proposed CE regulations and believes the CE program is perfect the way it is.

**Staff Suggested Response:** Staff disagrees with this comment. The purpose of the proposed regulations is to provide doctors of chiropractic with the broadest scope of CE options which will enhance their knowledge as diagnosticians and result in a safer practice and enhanced consumer protection.

**Comment 10:** Dr. Rik Cederstrom, D.C. feels the proposed changes to CE are unnecessary and not constructive. Specific concerns are as follows:
**a)** Laws should not be a mandatory subject category as they are available on the board's website.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Enforcement actions against doctors of chiropractic are a result of violations of the board's laws and regulations, which are covered in this topic; therefore, ethics and law should remain a mandatory category.

**b)** There are very few complaints and disciplinary actions taken by the board; therefore, a complete overhaul of the Chiropractic Initiative Act in regards to CE is a drastic change to accommodate the few offenders.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The percentage of complaints received and disciplinary actions taken by the board in relation to the number of licensees when compared to other healing arts boards are considered high. The board

does not have the authority to change the Chiropractic Initiative Act. CE is addressed in the board's regulations which the board has the authority to change through the rulemaking process.

**c)** Section 360 - This change is not consistent with other chiropractic boards or professional boards. The current regulation is less expensive and much more efficient.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Biennial CE provider renewal fees will support the boards cost to review CE applications and closely monitor the CE program.

**d)** Section 356 (#1 & 2) – There is no clarity, necessity or consistency on why the board would allow chiropractors to take courses from other professions outside their scope of practice; breaking down topics narrows the range of topics and puts limitations on CE instructors; proposes adding a category titled "Other".

**Staff Suggested Response:** Section 356 has been renumbered to Section 361 in the proposed language. Staff disagrees and recommends the board reject this comment. This does not remove the requirement that courses taken through providers approved by other healing arts boards or bureaus fall within the topics listed in categories 1-16 in Section 361. Limiting a chiropractor to taking courses specific to chiropractic does a disservice to the public and raises public safety issues. The reason for broadening the CE course choices is to broaden a chiropractor's education, improve communication and encourage referrals with other physicians. The scope of chiropractic is not broadened beyond the legal definition based on courses taken through CE. Further, there is a considerable level of risk to the public as health care advances, and it is important that chiropractors are educated on when it is appropriate to refer patients. The category "Other" is not needed as this section provides licensees with the broadest scope of CE options including courses approved by the DIRDWC or any healing arts board under Division 2 of the Business and Professions Code.

**e)** Section 362 – The provider denial and withdrawal process gives too much power to the Executive Officer and regulation does not define "good cause".

**Staff Suggested Response:** The board disagrees and rejects this comment. There are two levels of appeal, including an informal hearing before the Executive Officer of the board and a second hearing before the board members; therefore, the Executive Officer does not make the final decision on provider application denials or withdrawal of provider status.

**f)** Section 363 – In this section the board has claimed that the courses they approve meet a minimum standard by the board. No regulatory changes are warranted.

**Staff Suggested Response:** Staff is unclear of the reason for referencing the statement, "the board has claimed that the courses that they approve meet a minimum standard by the board" and how this is applicable to this section. This comment lacks specificity; therefore, staff recommends the board reject this comment.

**g)** Section 363.1 - Chiropractic has, is, and always will be a hands-on event. Due to the nature of chiropractic, one must have hands on training and physically attend a seminar.

**Staff Suggested Response:** Staff agrees that chiropractic is a "hands-on event". With the exception of licensees with physical disabilities and licensees actively serving in the United States armed forces, licensees may only earn up to 12 hours through distance learning. The distance

learning option gives licensees the flexibility to choose the subject and method of learning to best suit their needs. Further, licensees are not required to use distance learning to obtain CE credit.

**h)** Section 366 - He questions the qualifications of attendees to audit a CE program; the number of years in which a provider can lose their status for inaccurate verification is arbitrary for what may be a clerical error rather than a willful act.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The proposed language does not authorize attendees to audit a CE program, but rather gives audit authority to the board, which may use attendees' comments regarding courses as one part of the auditing process. Discipline for false or inaccurate verification of participation in CE courses will be relative to the severity of the violation.

**i)** Section 356.5 #4 – Educational seminar materials and adjusting instruments that are included in CE instruction need to be in the seminar room.

**Staff Suggested Response:** Section 356.5 #4 has been renumbered to Section 362(e)(4). Staff agrees and recommends the board accept this comment. The section was amended by the board prior to noticing the proposed regulations. The current proposed language does not prohibit the CE instructor from having educational materials or instruments which are part of the CE instruction from being in the room. This section only prohibits the display, marketing or sale of items while actual instruction is taking place. Staff recommends the board modify this section to include a statement which will not prohibit a provider from mentioning a product or service solely for educational purposes.

**Comment 11:** Dr. David Pobran, D.C. opposes the proposed CE regulations and believes the current CE requirements are more than adequate. He states that the 1996 CE proposal lacked clarity and believes the same of the current CE proposal.

**Staff Suggested Response:** Staff disagrees that the proposed CE regulations lack clarity. Descriptions of and reasons for each addition, amendment or repeal were outlined in the Initial Statement of Reasons. The purpose of the proposed regulations is to provide doctors of chiropractic with the broadest scope of CE options which will enhance their knowledge as diagnosticians and result in a safer practice and enhanced consumer protection. The proposed regulations clarify the responsibilities of providers and licensees, the processes for provider and course applications, as well as due process for denial of CE applications or withdrawal of approval. The proposed regulations also clarify the fees, forms and requirements for renewal and restoration of licenses.

**Comment 12:** Dr. Kim Beecher, D.C. believes that a 24-hour CE requirement is too much and the fees should be lower. She likes the idea of being able to take the expanded choice of topics provided by other healing arts provider licensing boards.

**Staff Suggested Response:** Staff disagrees that the proposed 24-hour CE requirement is excessive and the fees should be lowered. The proposed hours are consistent CE requirements of other healing arts boards. The board's decision to increase CE hours is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors. Approximately 50 percent of the violations alleged in consumer complaints received by the board

are related to areas which are included as mandatory CE topics in the proposed regulations. Staff believes the fees imposed by the proposed regulations are minimal and will help support the board's cost of monitoring the CE program more closely. Staff thanks Dr. Beecher for her support regarding the expanded choice of CE topics approved by other healing arts boards.

**Comment 13:** Dr. Jeffrey McCombs, D.C. opposes the proposed CE regulations. His letter restates all concerns verbatim in Dr. Cymerint's letter.

**Staff Suggested Response:** All concerns were previously raised by Dr. Cymerint and addressed in Comment 7.

**Comment 14:** Dr. Nicole Cherok wants to know how it is possible to change the number of hours without a referendum on the ballot to have the voters approve it. She states that the proposed increase in CE hours is excessive and believes that 17 hours is reasonable as that is the requirement for x-ray certification and technique updates.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board does not have the authority to change the Chiropractic Initiative Act. CE is addressed in the board's regulations, which the board has the authority to change through the rulemaking process. The board's decision to increase CE hours is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors. Approximately 50 percent of the violations alleged in consumer complaints received by the board are related to areas which are included as mandatory CE topics in the proposed regulations. The decision to increase CE hours should not be based on economic hardship, but rather on protection of the public and raising education awareness. There is a considerable level of risk to the public as health care advances, and it's important that chiropractors are educated on when it is appropriate to refer patients. Staff disagrees with the proposal to change the CE requirement to 17 hours. The board's proposal to increase the CE requirement to 24 hours puts doctors of chiropractic on a closer level with other licensed health care professionals.

**Comment 15:** Dr. Douglas Poff, D.C. likes most of the proposed CE concepts. However, he does not support the proposal to increase the hours from 12 to 24 as it will result in an economic hardship to licensees.

**Staff Suggested Response:** Staff thanks Dr. Poff, D.C. for his support on most of the proposed CE regulations. The board's decision to increase CE hours is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors. Approximately 50 percent of the violations alleged in consumer complaints received by the board are related to areas which are included as mandatory CE topics in the proposed regulations. The decision to increase CE hours should not be based on economic hardship, but rather on protection of the public and raising education awareness. There is a considerable level of risk to the public as health care advances, and it's important that chiropractors are educated on when it is appropriate to refer patients. The board's proposal to increase the CE requirement to 24 hours puts doctors of chiropractic on a closer level with other licensed health care professionals.

**Comment 16:** Dr. Richard Thornton, D.C. opposes the proposal to have manipulation of the spine as an elective CE topic, rather than mandatory. He believes the 4 hour minimum technique requirement should be reinstated and additional technique hours elective.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Mandatory CE topics were chosen based on common violations alleged in consumer complaints and violations which resulted in administrative or disciplinary action of licensees.

**Comment 17:** Dr. Sheila Chatari, D.C. opposes the proposal to increase the hours from 12 to 24 as it will result in an economic hardship. Dr. Chatari recommends keeping the 12 hour CE requirement and making the topics of ethics and law, billing, and history taking mandatory, as well as keeping the 4 hour adjustive technique requirement in place. She wants the board to accept the didactic and clinical work required by the Physician Assistant program as approved CE units for her chiropractic license.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board's decision to increase CE hours is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors. Approximately 50 percent of the violations alleged in consumer complaints received by the board are related to areas which are included as mandatory CE topics in the proposed regulations. The decision to increase CE hours should not be based on economic hardship, but rather on protection of the public and raising education awareness. There is a considerable level of risk to the public as health care advances, and it's important that chiropractors are educated on when it is appropriate to refer patients. The board's proposal to increase the CE requirement to 24 hours puts doctors of chiropractic on a closer level with other licensed health care professionals. Mandatory CE topics were chosen based on common violations alleged in consumer complaints and violations which resulted in administrative or disciplinary action of licensees.Staff disagrees with the recommendation to add didactic and clinical work required by the Physician Assistant program as approved CE units for a chiropractic license. The Board cannot anticipate all degree programs that licensees may pursue and determine whether or not the courses provided in those programs are appropriate for CE credit. It is possible that the provider of the degree program may also be an approved CE provider, in which case, the courses would qualify for CE credit under these proposed regulations.

**Comment 18:** Dr. Lawrence Nordhoff, D.C. would like the board to add a couple of items: 1) biomechanics and ergonomics should be added to the basic sciences topic (§361(a)(2)); 2) "Injury management", including industrial injuries, motor vehicle collisions, sports, recreational, etc. and include injury causation, mechanisms, diagnosis, and current treatment protocols under either Section 361(a)(6) or as a new subsection.

**Staff Suggested Response:** Staff disagrees with these recommendations and believes the proposed CE topics and providers are sufficiently broad to allow a licensee to take courses in these topics.

**Comment 19:** Dr. James A. Hamtak, D.C. opposes the mandatory CE topics stating that the state of Nevada enacted mandatory courses years ago. The board found it difficult to find specific courses available and eventually had to drop the "required" courses.

**Staff Suggested Response:** Staff believes this comment is irrelevant because it references circumstances in Nevada, not California. There are numerous providers in California and the Board has not received feedback from licensees regarding difficulty in finding courses to fulfill their CE requirements.

**Comment 20:** Dr. Gary De Forest, D.C. opposes the proposal to have adjustive technique as an elective CE topic, rather than mandatory.

**Staff Suggested Response:** Staff disagrees with this comment. Mandatory CE topics were chosen based on common violations alleged in consumer complaints and violations which resulted in administrative or disciplinary action of licensees. Further, adjustive technique is a primary element of chiropractic is an option for a mandatory subject area.

**Comment 21:** Dr. Chris Roberts opposes the increase in CE hours and states that mandating what chiropractors need to take each year is an attempt to make cookie cutter chiropractors.

**Staff Suggested Response:** Staff disagrees with this comment. The proposed regulations require only 6 hours of credit to be taken from mandatory topics and the remaining 18 hours to be taken from a wide variety of topics including attendance at board meetings, and courses approved by the DIRDWC or any Healing Arts Board or Bureau in Division 2 of the Business and Professions Code. These options provide licensees with the broadest scope of CE options to broaden a chiropractor's education, improve communication, and encourage referrals with other physicians.

**Comment 22:** Dr. James A. Ward, D.C. opposes the proposed CE regulations stating it will result in an economic hardship to licensees. Dr. Ward states the increased time and money will make it difficult for him to maintain his license.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board's decision to increase CE hours is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors. Approximately 50 percent of the violations alleged in consumer complaints received by the board are related to areas which are included as mandatory CE topics in the proposed regulations. The decision to increase CE hours should not be based on economic hardship, but rather on protection of the public and raising education awareness. There is a considerable level of risk to the public as health care advances, and it's important that chiropractors are educated on when it is appropriate to refer patients. The board's proposal to increase the CE requirement to 24 hours puts doctors of chiropractic on a closer level with other licensed health care professionals.

**Comment 23:** Mike Davis opposes the additional 12 hour CE requirement and states that although CE is important, he doesn't feel that it should be mandatory past the 12 hours that are already required.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board's decision to increase CE hours is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors. Approximately 50 percent of the violations alleged in consumer complaints received by the board are related to areas which are included as

mandatory CE topics in the proposed regulations. The decision to increase CE hours should not be based on economic hardship, but rather on protection of the public and raising education awareness. There is a considerable level of risk to the public as health care advances, and it's important that chiropractors are educated on when it is appropriate to refer patients. The board's proposal to increase the CE requirement to 24 hours puts doctors of chiropractic on a closer level with other licensed health care professionals.

**Comment 24:** An anonymous commenter states, "We are getting regulated more and paid less. If we are to have more requirements we need to be getting a benefit."

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board's decision to increase CE hours is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors. Approximately 50 percent of the violations alleged in consumer complaints received by the board are related to areas which are included as mandatory CE topics in the proposed regulations. The decision to increase CE hours should not be based on economic hardship, but rather on protection of the public and raising education awareness. There is a considerable level of risk to the public as health care advances, and it's important that chiropractors are educated on when it is appropriate to refer patients. The board's proposal to increase the CE requirement to 24 hours puts doctors of chiropractic on a closer level with other licensed health care professionals. Staff disagrees with these comments. The proposed CE requirements will benefit licensees by offering them a wider selection of courses to broaden their education, improve communication and encourage referrals with other physicians which will result in safer practice by chiropractors and enhanced consumer protection.

**Comment 25:** Dr. Jennifer Price, D.C. opposes the proposed changes to CE because they are unwarranted, unnecessary and uncredited. She feels that CE should further and enhance her education as a chiropractor rather than serve as a refresher course of material covered in chiropractic college. She does not see any valid reason for the proposed increase in hours and changes to the curriculum and states that there is no evidence that CE will improve chiropractor performance or prevent violations of laws and ethics.

**Staff Suggested Response:** Staff disagrees the proposed CE regulations are unwarranted, unnecessary and lack credit. The proposed CE requirements will benefit licensees by offering them a wider selection of courses, including those outside of the scope of chiropractic, to broaden their education, improve communication and encourage referrals with other physicians which will result in safer practice by chiropractors and enhanced consumer protection. The board has evidence of violations and malpractice reports that demonstrate a need for additional training. These violations are a result of a lack of knowledge or willful disregard of the laws and regulations guiding the practice of chiropractic. The board takes administrative or disciplinary action on approximately half of the complaints submitted to the board for violations of the board's laws and regulations. The Board believes that CE is a proactive approach that will prevent licensees from unknowingly violating the board's laws and regulations and result in a safer practice by chiropractors and protection of the consumer.

**Comment 26:** Dr. Jorge Orozco does not see how the proposed changes are for the better. He recommends increasing the hours and leaving the other CE requirements as is.

**Staff Suggested Response:** Staff disagrees that the CE requirements should be left as is and recommends the board reject this comment. The proposed CE requirements will benefit licensees by offering them a wider selection of courses to broaden their education, improve communication and encourage referrals with other physicians which will result in safer practice by chiropractors and enhanced consumer protection.

**Comment 27:** Dr. Staci Marazoni, D.C. opposes the proposed CE regulations for the following reasons:
**a)** The ethics and billing requirement will not protect my patients and it was already taught in chiropractic college.

**b)** Licensed chiropractors have to be properly trained to get their license and should not have to prove it over and over again through CE once they have passed the appropriate licensing exams.

**Staff Suggested Responses to (a) and (b):** Staff disagrees and believes mandatory courses are necessary based on the occurrence of complaints and administrative or disciplinary action taken by the Board for violations related to these topics. CE is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors.

**c)** Dr. Marazoni recommends adding CE topics related to changes in technology and nutritional science.

**Staff Suggested Response:** Staff believes the range of topics and providers selected by the board are sufficiently broad to allow a licensee to take courses in these topics.

**d)** Giving up a day or two to attend a seminar or fly to Sacramento for a board meeting would severely affect the patient's ability to receive care and have a negative financial impact upon chiropractors.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Attendance at board meetings is not required of licensees. Board meetings are held in various locations throughout California. Board meeting dates and locations can be found on the board's website at www.chiro.ca.gov. The proposed regulations include a distance learning option which will allow licensees to earn up to 12 hours of required CE hours at a time that is convenient for them.

**e)** Pharmacology is outside the chiropractic scope of practice.

**Staff Suggested Response:** Staff agrees that pharmacology is not within the chiropractic scope of practice; however, California Code of Regulations Section 302 authorizes doctors of chiropractic to employ the use of vitamins, food supplements, food for special dietary use, or proprietary medicines, so long as the substances are not included in materia medica as defined in Section 13 of the Business and Professions Code. Some vitamins and supplements may have adverse interactions with medications; therefore, staff believes that education on this topic will result in safer practice by doctors of chiropractic and enhanced consumer protection. Further, there is a considerable level of risk to the public as health care advances, and it is important that chiropractors are educated on when it is appropriate to refer patients.

**f)** Mandatory courses are not necessary. Chiropractors are professionals and should be able to assess where they like or need their CE time and dollars spent. She would like the board to consider allowing all CE hours to be taken through distance learning as this is allowed in other professions.

**Staff Suggested Response:** Staff disagrees and believes mandatory courses are necessary based on the occurrence of complaints and administrative or disciplinary action taken by the Board for violations related to these topics. CE is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors. Distance learning was selected as an option for CE credit to alleviate the cost and time constraints associated with attending a CE course in person; however, live seminars are a valuable mode for teaching hands-on techniques.

**Comment 28:** Dr. Cheryl Revkin, D.C. opposes the proposal to increase the CE hours because it would be a burden and is unnecessary for responsible practitioners.

**Staff Suggested Response:** Comments regarding economic hardship were raised by Concerned Chiropractor and addressed in Comment 3 above. The proposed CE requirements will benefit licensees by offering them a wider selection of courses to broaden their education, improve communication and encourage referrals with other physicians which will result in safer practice by chiropractors and enhanced consumer protection.

**Comment 29:** Dr. Zail Khalsa, D.C. opposes the proposed CE regulations and states that they do nothing to actually protect the public.

**Staff Suggested Response:** Staff disagrees and recommends the board reject these comments. The board has evidence of violations and malpractice reports that demonstrate a need for additional training. These violations are a result of a lack of knowledge or willful disregard of the laws and regulations guiding the practice of chiropractic. The board takes administrative or disciplinary action on approximately half of the complaints submitted to the board for violations of the board's laws and regulations. The Board believes that CE is a proactive approach that will prevent licensees from unknowingly violating the board's laws and regulations and result in a safer practice by chiropractors and protection of the consumer. Additionally, the proposed CE requirements will benefit licensees by offering them a wider selection of courses to broaden their education, improve communication and encourage referrals with other physicians which will result in safer practice by chiropractors and enhanced consumer protection.

**Comment 30:** Dr. Jim Naccarato, D.C. urges the board to reconsider their proposed CE regulations because it will create a financial burden.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board's decision to increase CE hours is a proactive approach that may prevent licensees from violating the board's laws and regulations, consequently saving licensees and the board the time and expenses associated with cases referred for administrative or disciplinary action and ultimately protecting the public from harm caused by chiropractors. Approximately 50 percent of the violations alleged in consumer complaints received by the board are related to areas which are included as mandatory CE topics in the proposed regulations. The decision to increase CE hours should not be based on economic hardship, but rather on protection of the public and raising education awareness. There is a considerable level of risk to the public as health care advances, and it's

important that chiropractors are educated on when it is appropriate to refer patients. Further, the proposed regulations give licensees the option of earning up to 12 hours of CE credit through distance learning to defray the cost of attending all CE courses in person.

**Comment 31:** Dr. Greg Heywood, D.C. opposes the proposed CE regulations and believes they will not protect the public any better than what is currently in place.

**Staff Suggested Response:** Staff disagrees and recommends the board reject these comments. The board has evidence of violations and malpractice reports that demonstrate a need for additional training. These violations are a result of a lack of knowledge or willful disregard of the laws and regulations guiding the practice of chiropractic. The board takes administrative or disciplinary action on approximately half of the complaints submitted to the board for violations of the board's laws and regulations. The Board believes that CE is a proactive approach that will prevent licensees from unknowingly violating the board's laws and regulations and result in a safer practice by chiropractors and protection of the consumer. Additionally, the proposed CE requirements will benefit licensees by offering them a wider selection of courses to broaden their education, improve communication and encourage referrals with other physicians which will result in safer practice by chiropractors and enhanced consumer protection.

**Comment 32:** Dr. Maia James, D.C, President of California Chiropractic Association (CCA) commends the board on our efforts to put forth regulations that increase the quality of continuing education provided to doctors of chiropractic. CCA supports the proposal to increase CE to 24 hours as this requirement puts doctors of chiropractic on closer par with other licensed health care professionals. CCA provided the following comments and suggestions:
**a)** Section 361(a) –CCA recommends restructuring Section 361(a) to read: (a) Licensees shall complete a minimum of twelve (12) hours of BCE-approved continuing education courses during the year preceding his or her license expiration.

**Staff Suggested Response:** Staff agrees that the proposed regulations do not address the number of CE hours required for licensees prior to the implementation date and has prepared a suggested modification to Section 361 for board consideration to address this concern.

**b)** Section 361(a) – The portion of this section stating, "Any continuing education hours accumulated before [insert the effective date of this regulation] that meet the requirements in effect on the date the hours were accumulated, will be accepted by the board for license renewals" is unclear and unnecessary because the course topics allowed before the effective date are the same as those required after the increased hours take effect. This language could be interpreted to allow CE hours accumulated several years prior to the effective date to also "roll over."

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board wants to ensure that licensees who obtain CE hours prior to the effective date of the proposed regulations receive full credit for those hours, even if they don't qualify for credit under the new regulations. Staff is not clear on why this is a concern as CE credit is granted for courses taken within the 12 month period preceding the license renewal.

**c)** Section 361(a) - The effective date of the sentence describing mandatory topics is unclear. CCA believes these requirements should take effect immediately and recommends this sentence to start a new paragraph for clarity purposes.

**Staff Suggested Response:** Staff agrees that the effective date of mandatory courses is unclear and has prepared a suggested modification to Section 361 for board consideration to address this concern.

**d)** Section 361(a) – CCA suggests renumbering the subparagraphs describing mandatory topics to subparagraphs 1-4, with Ethics and Law as subparagraph 1, Adjustive Technique as subparagraph 2, History Taking & Physical Examination remaining as subparagraph 3, and Proper and Ethical Billing and Coding as subparagraph 4 for clarity purposes.

**Staff Suggested Response:** Staff disagrees that the mandatory courses should be renumbered as items 1-4. Mandatory course topics are clearly identified in this section and do not need to be renumbered for clarity.

**e)** Section 361(a) – CCA requests the board to allow up to 6 hours of distance learning immediately upon the effective date of these regulations to help reduce costs and increase CE options for chiropractors. CCA suggests amendments to the sentence regarding distance learning to state, "Effective immediately, a licensee shall be permitted to obtain a maximum of six (6) continuing education hours through distance learning as defined in Section 363.1, and authorized by the board."

**Staff Suggested Response:** Staff agrees that 6 hours of distance learning should be allowed immediately upon the effective date of these regulations to reduce costs and increase CE options for licensees, as well as clarify CE requirements prior to the implementation date. Staff has prepared a suggested modification to Section 361 for board consideration to address this concern.

**f)** Section 361(a) – the reference to subparagraph 11 should include a description of the subparagraph (Ethics and Law) to be consistent with the other references in this sentence.

**Staff Suggested Response:** Staff agrees that the heading "Ethics and Law" should be added for consistency and has included this amendment in the suggested modification to Section 361 for board consideration.

**g)** Section 361(a) – CCA has concerns regarding the transition to the new requirements. If a licensee's license expires in the month the proposed regulations become effective, will the licensee be able to earn CE credit for classes not currently authorized (i.e. other healing arts boards or bureaus) prior to the effective date of this regulation? Will CE providers be able to secure CE credit (approval?) for classes not currently authorized prior to the effective date of the regulation?

**Staff Suggested Response:** Staff does not understand the reason for CCA's concerns and provides the following answers to their questions. Licensee's whose license expires in the month the proposed regulations become effective may or may not be able to earn credit for CE classes not currently authorized. Credit for CE courses listed in the proposed regulations cannot be granted prior to the effective date of the regulations. Therefore, if the license expires prior to the effective date of these regulations, the licensee would be subject to the CE regulations in effect at the time their license expires. Regulations approved by the Office of Administrative Law go into effect approximately one month later. CE course applications with proposed courses which are not included in current regulation can be accepted for approval once the board has been notified that the proposed regulations have been approved by OAL; however, these courses may not be given until the effective date of the regulations.

**h)** Section 361(a) - CCA recommends adding the following statement, "Licensees may not earn credit for the same course more than once within the same license renewal period."

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Allowing licensees to take the same course more than once within the same license renewal period does not pose a problem; in fact, licensees may learn more if they are allowed to retake the course.

**i)** Section 361(a)(1) – Recommends amending this section to state, "Philosophy of chiropractic." CCA states that the extra words are unnecessary and the current version implies that the course must include "historical development of chiropractic as an art and science and health care approach" in order to count for CE credit.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Definitions help to clarify the board's expectation regarding the scope of the course and ensure providers, board staff and students are clear on the definition of the course. Definitions also assist board staff with review of course applications for approval.

**j)** Section 361(a)(2) – CCA recommends replacing the word "and" with "or" to eliminate the need for all of these topics to be included in a course under this subsection.

**Staff Suggested Response:** Staff agrees that the word "and" should be replaced with "or" in Section 361(a)(2) and has included this amendment in the suggested modification to Section 361 for board consideration.

**k)** Section 361(a)(3) – Amend this section to state, "History taking and physical examination procedures, including but not limited to general diagnosis and differential diagnosis of all conditions that affect the human body." Extra words that describe the types of physical examination procedures are unnecessary to describe eligible coursework and may become outdated and emerging procedures may not be eligible for CE. Further, regulations for other health care providers do not unnecessarily list every component of physical examinations.

**Staff Suggested Response:** Staff disagrees and believes this section is clear and sufficiently broad to allow for emerging procedures by the use of the words "including but not limited to".

**l)** Section 361(a)(6) – Amend this section to state, " Pain management theory." Extra words that describe the types of pain management theory are unnecessary and should be avoided.

**m)** Section 361(a)(8) – Amend this section to state, "Instruction in Manipulation Under Anesthesia." Language describing the type of MUA instruction is not necessary and can confuse the doctor of chiropractic's role during the MUA procedure.

**Staff Suggested Responses to Comment 32 (l) & (m):** Staff disagrees with these comments. Definitions help to clarify the board's expectation regarding the scope of the course and ensure providers, board staff and students are clear on the definition of the course. Definitions also assist board staff with review of course applications for approval. The scope of MUA is defined in CCR section 318.1 rather than the description of the course defined in section 361(a)(8).

**n)** Section 361(a)(9) – Amend this section to state, "Instruction in the aspects of special population care, including, but not limited to, geriatric, pediatric, and athletic care." Chiropractors must

incorporate what they have learned and do so within the confines of their scope of practice; therefore, the extra wording is restrictive and unnecessary.

**Staff Suggested Response:** Staff disagrees as the board does not have authority to approve CE providers whose courses are not related to the scope of chiropractic. However, the proposed regulations do not limit a licensee from taking courses offered by providers approved by the DIRDWC or other healing arts boards or bureaus which may be outside the chiropractic scope of practice.

**o)** Section 361(a)(10) – Amend this section to state, "Instruction in proper and ethical billing, coding, record keeping and documentation. This shall not include practice building or patient recruitment, patient retention or principles to increase patient visits or patient fees per case." The language suggested to be removed is unnecessary, e.g. the BCE is not going to approve a course that teaches inaccurate and ineffective recordkeeping.

**Staff Suggested Response:** Staff disagrees that the language in this subparagraph is excessive and unnecessary. The language was drafted to add clarity and emphasize best practices in recordkeeping and documentation and the importance of accurate and effective recordkeeping.

**p)** Section 361(a)(11) – Amend this section to state, "Ethics, laws, rules and regulations related to the practice of chiropractic in the State of California."

**Staff Suggested Response:** Staff disagrees with this comment. Definitions help to clarify the board's expectation regarding the scope of the course and ensure providers, board staff and students are clear on the definition of the course. Definitions also assist board staff with review of course applications for approval.

**q)** Section 361(a)(12) – Amend this section to state, "Adverse event avoidance." Malpractice issues are already included under subparagraph 11 – Ethics and Law.

**Staff Suggested Response:** Staff disagrees that malpractice issues should be removed from this subparagraph and recommends the board reject this comment. A course in ethics would not necessarily include malpractice issues. Adverse events and malpractice are closely related, if not interchangeable.

**r)** Section 361(a)(13) – Amend this section to state, "Pharmacology." This is an all encompassing term that doesn't need additional description or qualification. CCA also recommends separating blood and urinalysis testing and the use of and interpretation of drug testing strips or kits under their own subsections [361(a)(14) and 361(a)(15)] because they are distinct and separate from pharmacology.

**Staff Suggested Response:** Staff disagrees with this comment. Pharmacology is an all encompassing term and the board wants to ensure key components relevant to the practice of chiropractic are included in CE courses. Urine and blood analysis testing fall under the broad pharmacology category and are appropriately placed in this section.

**s)** Section 361(a)(14) – CCA recommends adding "advanced life support" and replacing the word "and" with "or".

**Staff Suggested Response:** Staff disagrees that advanced life support should be added to this subparagraph. Basic life support is a prerequisite for advanced life support. Advanced life support exceeds the minimum requirements in this section and would be an acceptable topic for CE credit under this subparagraph. Staff agrees with the recommendation to replace "and" with "or" and has included this change in their suggested modification to Section 361 for board consideration.

**t)** Section 361(a)(16) – Remove the requirement that the topics listed in this subparagraph be related to the practice of chiropractic as chiropractors must incorporate what they have learned within the confines of their scope of practice. CCA also recommends placing each course topic under their own subsection [361(a)(16) – 361(a)(19)].

**Staff Suggested Response:** Staff disagrees as the board does not have authority to approve CE providers whose courses are not related to the scope of chiropractic. However, the proposed regulations do not limit a licensee from taking courses offered by providers approved by the DIRDWC or other healing arts boards or bureaus which may be outside the chiropractic scope of practice. The course topics listed under subparagraph 16 are clearly identified and do not need to be renumbered into their own subsections.

**u)** Section 361(b) – Recommends listing mandatory courses under subdivision (b), non-mandatory courses under subdivision (c), and renumbering this portion to subdivision (d).

**Staff Suggested Response:** Staff disagrees that mandatory and non-mandatory courses should be placed under separate subdivisions and recommends the board reject this comment. Mandatory and non-mandatory courses are clearly defined in this section.

**v)** Section 361(b) – CCA strongly opposes this provision as it is drafted and recommends the language be amended to restrict the number of hours allowed from other healing arts boards to six hours total and further restrict CE allowed under this section to boards or bureaus that license doctorate-level providers.

**Staff Suggested Response:** Staff disagrees that licensees should be limited to six hours for courses earned from other healing arts boards or bureaus. This does not remove the requirement that courses taken through providers approved by other healing arts boards or bureaus fall within the subject areas listed in categories 1-16 in this section. Limiting a chiropractor to taking courses specific to chiropractic does a disservice to the public and raises public safety issues. Further, there is a considerable level of risk to the public as health care advances, and it is important that chiropractors are educated on when it is appropriate to refer patients.

**w)** Section 362 – CCA suggests reorganizing this section in a logical sequence beginning with the process for registration and requirements of a CE provider, then the process for appealing the denial of a CE provider, and lastly the terms for withdrawal of CE provider status and appeal process.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. We believe the sequence is irrelevant as all applicable elements including provider approval, requirements, appeals, denials and withdrawals are clearly divided into separate subdivisions.

**x)** Section 362 – Requiring board approval for providers and courses is excessive. The 5-year CE provider experience requirement should be reinstated and current requirements for providers should be maintained.

**Staff Suggested Response:** Staff does not believe that requiring approval for providers and courses are excessive. The board needs to know who is currently providing CE to its licensees. This process will allow the board to monitor CE more closely by maintaining a current list of providers based on provider applications and renewals. The board is making the standard more lenient for providers by eliminating the 5 yr experience requirement. Additionally, the experience requirement in current regulation is unclear as it does not clarify the type of experience required. The board believes the responsibility of the provider is to ensure instructors are appropriately trained and qualified to teach the courses offered by the provider.

**y)** Section 362(e)(2) – Recommends that this section be made clear that a withdrawal or denial of a course approval or withdrawal of CE provider status shall not affect the eligibility of CE earned by licensees at board-approved courses taken prior to the disciplinary action against the CE provider.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. It is the responsibility of the provider to comply with the CE regulations to ensure students are eligible to receive CE credit for courses offered by the provider.

**z)** Section 363 - CCA suggests reorganizing this section in a logical sequence beginning with the process for course approval and what constitutes a course; second, the elements of courses and provider duties related to the courses; next, the process for appealing the denial of a CE course application, and lastly the terms for withdrawal of CE course approval and appeal process.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The sequence is irrelevant as all applicable elements including course approval, requirements, appeals, denials and withdrawals are clearly divided into separate subdivisions.

**aa)** Section 363(c)(2) – The proposed regulations eliminate the requirement for CE providers to ensure each person spends 50 minutes of each hour in the classroom and instead requires licensees to sign in and out at the end of the day that they attended the course for the hours stated. CCA believes the provider should have some responsibility to ensure the person who obtains CE credit is in the classroom for the required amount of time based on the example of abuse in Florida. It is unclear whether Section 362(e)(2) requires providers to verify the identity of the persons on the list.

**Staff Suggested Response:** The board wishes to place the responsibility of attendance and identity verification on the licensee who signs the sign-in sheet at the start and conclusion of the course and submits a license renewal to the board signed under penalty of perjury that they have fulfilled the CE requirements. Section 362 does not restrict providers from taking additional measures to monitor licensees for compliance with the hourly attendance requirements for course credit.

**ab)** Section 363.1 – This section is unclear as to what types of classes listed in proposed Section 361 might not be eligible, if any, for distance learning. This section requires that distance learning CE providers disclose the course instructor's curriculum vitae or resume to participants which is not required by seminar providers. Further, manuals, compact disks, and audio or video tapes do not come with an instructor or author vitae or resume.

**Staff Suggested Response:** There are no restrictions on the type of courses a licensee can take for CE credit through distance learning as long as they fall within the topics listed in Section 361 and

are offered by providers approved by the BCE, DIRDWC, or other healing arts boards or bureaus under Division 2 of the Business and Professions Code. As professionals, licensees can decide which learning format, distance or classroom, best suits their learning needs. It is important to provide instructor curriculum vitae or resumes for distance learning courses because the licensee will not have face to face contact with the instructor and cannot inquire about the instructors credentials or background.

**ac)** Section 363.1(g) – This section prohibits the promotion of chiropractic products and services in distance learning classes. The section states in pertinent part that manufacturers and others of chiropractic products and services "may not be endorsed into the course material." CCA does not know what "endorsed" means in the foregoing context and therefore renders the sentence unclear.

**Staff Suggested Response:** Staff agrees that this sentence is unclear and recommends the board modify the sentence to state, "Course material shall not endorse manufacturers, distributors, or other sellers of chiropractic products or services." The purpose of this subdivision is to ensure licensees receive CE credit for instruction in course topics contained in Section 361, rather than a "sales pitch" for chiropractic products or services.

**ad)** Section 364(a)(3) - Remove the following words: "have taught for one (1) year and currently" and "core curriculum courses". Many valuable courses are offered as electives rather than core curriculum courses. There appears to be no policy basis for granting an exemption only after the instructor has met for [sic] exemption requirement for one year prior to being eligible for the exemption.

**Staff Suggested Response:** Staff disagrees with CCA's recommendation to eliminate the 1 year teaching requirement and core curriculum courses. Licensees who teach elective courses can acquire CE credit under paragraph 4 of this section. The board does not choose to grant CE credit to instructors who have no prior teaching experience.

**ae)** Section 364(a)(6) – CCA supports allowing up to 24 hours of CE for doctors who volunteer as a Chiropractic Examiners for the National Board Examination.

**Staff Suggested Response:** Staff appreciates the contribution licensees who participate as examiners in the National Board Examination are making to their profession; however, we do not believe it is an appropriate substitution for 24 hours of CE. The board has always granted 12 hours of CE credit to licensees who participate as chiropractic examiners in the National Board Examination. The examination has not changed to require more work by licensees participating as examiners; therefore, the amount of credit granted should remain the same.

**af)** Section 366 – CCA requests that the audit process be more clearly spelled out in the proposed regulation, including procedures for contacting attendees and the standardized questionnaire used during this process, criteria for passing or failing an audit, consequences for technical and serious violations, and detail the ability and process to appeal a decision to suspend a CE provider's approved status.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The regulations give the board authority to conduct CE audits. The audit process is not required to be included in regulation and is developed through policy and procedures. Further, not every audit will be the same. Audits will be focused on allegations in complaints or other factors. When

auditing courses or providers, the purpose is to ensure compliance with applicable laws and regulations.

**ag)** Section 366 – The reference to the "full board's ruling" relative to CE provider status suspension should be made to section 362(a) rather than 363(b).

**Staff Suggested Response:** Staff agrees and recommends the board modify Section 366 to reflect the proper reference to the "full board's ruling" in regards to provider status withdrawal.

**ah)** Section 371 – Questions the board's statutory authority to require licensees to disclose convictions that do not impact their practice of chiropractic.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Section 10(b) of the Chiropractic Initiative Act allows the board to refuse to grant, suspend or revoke a license to practice chiropractic for a plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense substantially related to the practice of chiropractic. Business and Professions Code (BPC) § 493 allows the board to deny an application for licensure, to suspend or revoke a license, or take disciplinary action against a licensee who has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question. BPC § 493 states, in part, "the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question." Lastly, California Code of Regulations (CCR) § 317 (h) and (i) authorizes the board to take action against a licensee who is guilty of unprofessional conduct which includes conviction of any offense, whether felony or misdemeanor, involving moral turpitude, dishonesty, physical violence or corruption; or conviction of more than one misdemeanor or any felony involving the use, consumption or self-administration of any dangerous drugs, or controlled substances. As a regulatory agency, the board's responsibility is to determine, on a case by case basis, whether a crime is substantially related to the scope of practice. The referenced laws and regulations allow the board to collect information regarding convictions to determine whether the conviction is substantially related to the practice of chiropractic and to set the degree of discipline. The board cannot rely on the applicant or licensee to make that determination as the board may disagree whether the crime was substantially related to the scope of practice. Due process is granted to all applicants or licensees to appeal a decision of the board. Furthermore, the board can choose not to charge the conviction of the crime, but rather the underlying facts in the accusation.

**ai)** Section 371 – Recommends reorganization of this section into multiple subparts that impart clearly the renewal and restoration requirements for various license statuses. Subsection (b) appears to inadvertently apply to doctors renewing their active or inactive license. This provision further references inactive licenses as an expired license. The requirements to change an inactive license to active license differ from and are in conflict with Section 355.2 relating to inactive licenses. CCA recommends the requirement to complete the board's CE requirements in effect each year the license was cancelled also reference "or portion thereof". CCA provided an alternate version of this section for the board's consideration.

**Staff Suggested Response:** Staff agrees with part of this comment and has made clarifying changes to this section for board consideration. Staff disagrees that "or portion thereof" should be added and recommends the CE requirements for inactive licenses be modified for consistency with BPC Section 704.

**aj)** CCA encourages the board to review its entire set of regulations for potential needed changes to conform to their proposed recommendations.

**Staff Suggested Response:** This comment is not clear and lacks specificity; therefore, staff recommends the board reject this comment.

**ak)** CCA encourages the board to review the proposed and existing forms related to CE, license renewal and restoration to ensure that they conform to the requirement proposed in these regulations.

**Staff Suggested Response:** Forms were reviewed and changes were made to conform to the proposed language. The board has been accepting suggestions and making appropriate changes to the proposed forms throughout the regulation process. This comment lacks specificity; therefore, staff recommends the board reject this comment.

**al)** CE Course Application – Suggests adding a reference to the definition of a course as contained in Section 363.

**Staff Suggested Response:** Staff agrees with the recommendation to add the course definition to the CE Course Application and recommends the board accept this comment.

**am)** CE Provider Application – Recommends that the language be made clear that a withdrawal or denial of course approval or withdrawal of CE provider status shall not affect the eligibility of CE earned by licensees at board-approved courses taken prior to the disciplinary action against the CE provider.

**Staff Suggested Response:** Staff disagrees that withdrawal or denial of course approval or provider status should not affect the licensee's ability to earn CE credit. It is the responsibility of the provider to comply with the CE regulations to ensure students are eligible for CE credit obtained from courses offered by the provider.

**an)** Inactive to Active Status Application – Recommends that the requirement to complete the board's CE requirements in effect each year the license was inactive also reference "or portion thereof". Recommends replacing "expired" with "inactive" in the second portion. Recommends replacing "restoration application" with "Inactive to Active Status Application" in the third portion. Question 3 does not contain the exceptions for providing conviction information contained in Section 371 and recommends that these exceptions to be added to the application.

**Staff Suggested Response:** Staff accepts these comments, in part. Staff disagrees that "or portion thereof" should be added that restoration application should be replaced with Inactive to Active Status Application and recommends the CE requirements for inactive licenses be modified for consistency with Business and Professions Code Section 704. Staff accepts the comment regarding exceptions for providing conviction information and recommends the board add this verbiage on the Inactive to Active Status Application.

**ao)** Application for Restoration of License – This application refers to the "Date of Forfeiture or Cancellation"; however, Section 371 requires an applicant seeking to restore a license in forfeiture to use Forfeiture Form (D1HDC). This application requires applicants to submit fingerprints which cannot be approved until the board's fingerprint regulations are adopted. Under question 10, CCA

recommends the requirement to complete the board's CE requirements in effect each year the license was cancelled also reference "or portion thereof".

**Staff Suggested Response:** Staff agrees that Section 371 should be revised for clarity and has modified this section to explicitly describe which forms are to be completed for license renewal and restoration for board consideration. Form D1HDC is an automated "courtesy" notice sent to licensees who have not renewed their license within 60 days of their license expiration date. Licensees whose license is in forfeiture status are required to submit a $300 restoration fee and submit a completed Application for Restoration of License with documentation of CE in order to restore their license. Staff disagrees that the board cannot require licensees to submit fingerprints and recommends the board reject this comment. When licenses are cancelled, the board is required to send a "No Longer Interested" notice to the Department of Justice so that the board no longer receives subsequent notifications of arrest or convictions. Therefore, when an applicant files to restore their license, they are required to resubmit their fingerprints. Penal Code Section 111502 authorizes the board to require an applicant to furnish a full set of fingerprints for the purpose of conducting a criminal history search from the Department of Justice and the Federal Bureau of Investigation. Staff disagrees that "or portion thereof" should be added as the renewal requirements are considered for each renewal period.

**Comment 33:** Gerard W. Clum, D.C., President of Life Chiropractic College West (LCCW) opposes the proposed CE regulations stating that they fail to meet the necessity criteria and the standards of clarity, consistency, authority and reference. A copy of OAL's decision of disapproval of regulatory action dated July 30, 1996 regarding CE and exhibits to comments were included with their submission. Specific concerns and recommendations are as follows:
**a)** The Notice references Penal Code sections 11105 and 11105.2 which address the duties of the Department of Justice to maintain state criminal history information.

**Staff Suggested Response:** This comment is not clear and lacks specificity; therefore, staff recommends the board reject this comment. Penal Code §§11105 and 11105.2 require the Attorney General to furnish summary criminal history information to any agency, officer, or official of the state, if needed, in fulfilling employment, certification, or licensing duties.

**b)** The board's notice is missing two mandated elements: (1) A concise and clear summary of existing laws and regulations, if any, related directly to the proposed action and of the effect of the proposed action, and (2) A policy statement overview explaining the broad objectives of the regulation and, if appropriate, the specific objectives. The current regulatory action consists of 13 components which should be individually addressed by providing a statement of existing law and a policy statement overview explaining the objectives for the proposed changes.

**Staff Suggested Response:** Staff disagrees that the notice is missing mandated elements and believes these requirements have been fulfilled. Each section is individually addressed in the Initial Statement of Reasons.

**c)** Providers approved by other state agencies identified in Section 361(b) have an unfair economic advantage over board approved providers as they are not subject to the same fees and requirements.

**Staff Suggested Response:** Staff disagrees that providers approved by other state agencies have an unfair economic advantage over board approved providers and recommends the board reject this comment. The intent of this section is to provide licensees with the broadest scope of CE

options in order to enhance licensees' knowledge so that they provide safer treatment of patients and referrals when necessary. CE credit will be granted for courses on topics listed in Section 361 which have been subjected to a review and approval process by the California Department of Industrial Relations, Division of Workers Compensation or any healing arts board under Division 2 of the Business and Professions Code.

**d)** The board asserts that proposed fees incurred by providers of CE will be offset by the increase in revenue generated by the wider range of courses they can provide; however, the regulations do nothing to enlarge the topics that may be offered by board approved providers and allows licensees to receive credit for <u>any</u> course offered by providers approved by other state agencies.

**Staff Suggested Response:** Staff disagrees with these comments. Topics were broadened to include adverse event avoidance; pharmacology; CPR, basic life support and use of an automated external defibrillator. Courses taken by licensees from other healings arts boards or bureaus must fall within the 16 subject areas listed in Section 361; however, they are not required to specifically relate to the scope of chiropractic.

**e)** The industry standard for chiropractic CE programs is a cohesive 12-hour program focusing on one area of study (e.g. technique, nutrition, neurology, spinal injury). The proposed changes will require the chiropractic colleges and associations to design and implement new products specifically geared to the California audience to meet the board's prescriptive requirements.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. There are many courses offered by numerous providers, including independent providers, on various areas of study. The proposed changes may result in increased competition and higher quality of courses. The board's responsibility is to ensure the required CE topics educate licensees on current industry standards and protection of the public rather than conforming to a school's course syllabus. CE providers are businesses and all businesses have to conform to current laws and regulations.

**f)** The fiscal impact on small businesses is not small. The proposed regulations will require countless hours to be spent to justify which seminars match the licensee's needs, schedule and budget. Creation of a 3 category system will multiply licensees' expenditure of time and money.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Licensees currently take the time to determine which CE seminars match their needs, schedule and budget in order to fulfill their CE requirements. Staff is not clear what LCCW means by their reference of a 3 category system. Section 361 lists all categories for which credit is granted, expanded options for achieving CE to include distance learning and providers approved by the DIRDWC and other healing arts boards and bureaus under Division 2 of the Business and Professions Code to enable licensees to earn CE credit in a manner that meets their time constraints and budget.

**g)** A more effective and less burdensome alternative to prescribed mandatory CE is to allow the licensees to select programs they feel fit their needs.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Mandatory courses are necessary based on complaints and administrative and disciplinary action of licensees who violate the laws and regulations.

**h)** The Initial Statement of Reasons is deficient, as it does not state the specific purpose and rationale for each adoption, amendment, or repeal.

**Staff Suggested Response:** This comment is not clear and lacks specificity. Each section is individually addressed in the Initial Statement of Reasons.

**i)** The underlying data holds little value, as the document does not relate what period of time is included or the number of complaints summarized.

**Staff Suggested Response:** Underlying data included in the package include allegations on complaints received during the period of July 1, 2009 through February 29, 2010 (referenced in the Initial Statement of Reasons). The chart summarizes the percentage of allegations by topic received in complaints. The number of complaints is irrelevant as complaints often contain multiple allegations.

**j)** Complaint Unit statistics submitted to board members at its May 13, 2010 meeting shows that complaints are declining without the imposition of any prescriptive measures.

**Staff Suggested Response:** Staff agrees that the number of complaints may be declining; however, the types of violations and percentages are still relevant.

**k)** The only published analysis of disciplinary actions taken by the board against licensees in California indicates that there are a "low percentage of disciplinary actions for doctors of chiropractic..." [Foreman, SM, Stahl, M. Chiropractors Disciplined by State Chiropractic Boards. J Manipulative Physiol Ther 2004;24:472-7]

**Staff Suggested Response:** This comment is unclear and lacks specificity; therefore, staff recommends the board reject this comment.

**l)** The board has dismissed that any reasonable alternatives exist to its proposed regulatory changes. A review of the board meeting minutes, referenced as Underlying Data, reveal that the affected parties (as well as board members) offered numerous reasonable alternatives during the two years preceding this most recent submittal.

**Staff Suggested Response:** This comment is too broad and lacks specificity. The board has carefully considered all provisions and alternatives and has been working with stakeholders for 2 years to prepare the proposed CE language. Board meeting minutes reflect that the basic elements of the proposed regulations were agreed upon by the board and the CE workgroup when the topic was first introduced (i.e. increasing CE requirement to 24 hours, allowing CE credit for courses approved by the DIRDWC and other healing arts boards or bureaus under Division 2 of the Business and Professions Code, distance learning option, etc.).

**m)** The proposed regulatory language submitted to the public for comment does not cite the specific statute or law authorizing adoption of each regulation.

**n)** The proposed regulations have omitted the "authority" note and the public cannot comment knowledgably in the absence of this information.

**Staff Suggested Responses to Comment 33 (m) & (n):** Staff disagrees and recommends the board reject these comments. These are requirements of the Office of Administrative Law (OAL).

The authority and references were not omitted and are clearly cited in the Notice which states, "Authority and Reference: Pursuant to the authority vested by Sections 1000-4(b) and 1000-10 of the Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii), and to implement, interpret or make specific Sections 1000 - 4 (b), and 1000-10 (c) (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii), and Penal Code Sections 11105 and 11105.2; the board is considering changes to Title 16, Division 4, of the California Code of Regulations as follows:". The authority and reference applies to all provisions of the proposed regulations. The Notice was sent to all licensees and interested persons with a copy of the proposed language, as well as posted on the board's website; therefore, the public can knowledgeably comment on these regulations.

**o)** Section 360(a)-(c) – It is inequitable that one class of providers (board approved providers) must bear the entire cost of monitoring compliance with these regulations.

**Staff Suggested Response:** Staff neither agrees nor disagrees with this comment. The Board of Chiropractic Examiners (BCE) does not review and approve applications for providers approved by the DIRDWC or other healing arts boards or bureaus; therefore, the board cannot assess additional fees upon them for work we do not render. Providers approved by other healing arts boards or bureaus are subject to the fees and requirements set by their approving agency.

**p)** Section 360(a)-(c) – The board has not shown the necessity for the fees nor justification of the fee amounts.

**Staff Suggested Response:** Currently, the majority of time and expenses associated with application review and monitoring of the CE program are absorbed by the board. The Board has proposed nominal fees to offset the board's time and resources spent monitoring CE providers and courses. In fact, the Department of Finance expressed concern that the proposed fees were not high enough to cover the board's cost to monitor the CE program.

**q)** Section 360(a)-(c) – If the board has performed a cost analysis that supports the proposed fees, that documentation should have been identified in the Initial Statement of Reasons.

**Staff Suggested Response:** Staff rejects this comment as no such study was conducted.

**r)** Section 361(a) - There is no rationale presented for the specific hour requirements and categories for CE course subjects.

**Staff Suggested Response:** The hourly requirements and categories were decided upon by the board members with collaboration from the CE working group, consisting of various stakeholders, the CE Committee, and input from other parties. The board chose to require two hours in ethics and law based on complaints received by the board. The remaining mandatory subjects were chosen because they are core duties of the chiropractor.

**s)** Section 361(a) - There are no cited facts, studies, or expert opinions to demonstrate more hours are better.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The proposed CE requirements will benefit licensees by offering them a wider selection of courses, including those outside of the scope of chiropractic, to broaden their education, improve

communication and encourage referrals with other physicians which will result in safer practice by chiropractors and enhanced consumer protection. The board has evidence of violations and malpractice reports that demonstrate a need for additional training. These violations are a result of a lack of knowledge or willful disregard of the laws and regulations guiding the practice of chiropractic. The board takes administrative or disciplinary action on approximately half of the complaints submitted to the board for violations of the board's laws and regulations. The Board believes that CE is a proactive approach that will prevent licensees from unknowingly violating the board's laws and regulations and result in a safer practice by chiropractors and protection of the consumer.

**t)** Section 361(a) - The Initial Statements of Reason infer that the board deliberated on either complaint or enforcement statistics to select the categories of mandatory CE it has prescribed; however, the minutes do not reflect as such.

**Staff Suggested Response:** The board has worked with various stakeholders on the CE regulations for 2 years and minutes reflect comments regarding criteria for selecting CE topics, whether mandatory or non-mandatory, from as far back as 2008. Minutes are not a full transcript of the public meeting. Rather, public meetings can be viewed on the board's website at www.chiro.ca.gov. Life Chiropractic College West (LCCW) provides an excerpt from a board meeting where this issue was described in the next item.

**u)** Section 361(a) - A quotation from Dr. Lerner regarding his position on mandatory topics was quoted.

**Staff Suggested Response:** This comment is unclear. The proposed language regarding mandatory categories was discussed and adopted through a majority vote by the board.

**v)** Section 361(a) - The Notice states that the board believes CE is a proactive approach that may prevent licensees from violating the board's laws and regulations... The board should run a short-term experiment whereby it identifies the areas of deficiencies in training, prescribes corrective courses and analyzes the outcome.

**Staff Suggested Response:** Staff disagrees that an experiment is needed to determine the areas of deficiencies in training. Staff has knowledge of deficiencies in training based on malpractice reports, consumer complaints, and administrative and disciplinary actions of licensees.

**w)** Section 361(a) - The board has failed to articulate its reasoning to the public for changes to type and content of acceptable CE courses.

**Staff Suggested Response:** Staff disagrees and has explained the reasoning behind the changes to CE courses. The Initial Statement of Reasons states, "It is essential that doctors of chiropractic are knowledgeable of current medical conditions and procedures, and that they receive training in relevant courses to strengthen public protection; therefore, the course selection has been expanded to meet these needs."

**x)** Section 361(a) - The regulations create a 24-month gap where no CE is required to renew a license.

**Staff Suggested Response:** Staff agrees with this comment and has prepared a suggested revision to Section 361 which addresses this concern for consideration by the board.

**y)** Section 361(a) - It is unclear whether the board must approve CE courses offered through distance education. Under Section 363.1, does "authorized" mean the board has reviewed and approved the course through some mechanism?

**Staff Suggested Response:** Staff agrees and recommends the board accept this comment. Distance learning courses must be approved by the BCE, DIRDWC, or any other healing arts board or bureau under Division 2 of the Business and Professions Code. Staff has modified Section 361 to address these concerns for board consideration.

**z)** Section 361(a) - This section does not comply with the clarity standard of Title 1, CCR §16(a)(5). The run-on sentence which addresses numbers of hours, combined with subparagraph numbers, and subtitle names, while also addressing additional continuing education topics in sixteen subparagraphs that follow, is frankly befuddling even to the parties who have been engaged in the review process and understand the board's intent.

**Staff Suggested Response:** Staff accepts this comment and has amended Section 361 for board consideration.

**aa)** Section 361(a) - Sections 11, 3, 5 and 10 should be grouped under "mandatory" and the remaining sections placed in the elective category.

**Staff Suggested Response:** Staff disagrees that the mandatory and elective subject areas should be categorized differently and recommends the board reject this comment. Mandatory and elective subject areas are clearly identified in Section 361; therefore, no change is necessary.

**ab)** Section 361(a), subsections (1-16) – Most of these topics could be reduced from run-on sentences to a few words. LCCW suggests amendment of the topics as follows: 1) Philosophy of chiropractic; 2) Basic sciences; 3) Examination procedures and diagnosis; 4) Diagnostic testing; 5) Chiropractic adjustive or manipulative technique; 6) Pain management; and 7) Physiotherapy.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Definitions help to clarify the board's expectation regarding the scope of the subject and ensure providers, board staff and students are clear on the definition of the subject. Definitions also assist board staff with review of course applications for approval.

**ac)** Section 361(b) – The board has not fully examined either the credentialing criteria or the breadth of coursework approved by these other boards and bureaus.

**Staff Suggested Response:** Staff disagrees that the board should fully examine the criteria or breadth of coursework approved by other boards and bureaus. Other healing arts boards and bureaus require CE to keep licensees current on industry standards relating to their scope of practice and protection of the public. It is the responsibility of the regulatory board for each profession requiring CE of its licensees to examine credentialing criteria and breadth of coursework to determine whether courses meet their CE standards. The BCE does not have jurisdiction to approve providers of CE outside of the scope of chiropractic.

**ad)** Section 361(d) – This section should be corrected to refer back to subparagraph (b) and not "this subdivision".

**Staff Suggested Response:** Staff accepts this comment and has amended Section 361 for board consideration.

**ae)** Section 362(a) – This portion should be moved to a later subsection.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. We believe the sequence is irrelevant as all applicable elements including provider approval, requirements, appeals, denials and withdrawals are clearly divided into separate subdivisions.

**af)** Section 362(a) – The process is essentially the same for a provider application, a course application and withdrawal of course approval. LCCW suggests this process be set out in a separate regulation.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. LCCW has not clearly expressed their rationale for the suggested changes. The provisions for the application process and withdrawal of approval for providers and courses are clearly delineated in the proposed regulations and the board does not share LCCW's concern regarding the ease of future regulation changes.

**ag)** Section 362(c) – All requirements for prior experience in providing CE have been eliminated. There are no criteria to form a basis for denial.

**Staff Suggested Response:** Staff disagrees with this comment. Granting approval to providers gives the board jurisdiction and recourse over providers if a licensee is harmed by a provider. Violations of these provisions allow the board to withdraw or deny approval.

**ah)** Section 362(c) – The board has not provided any rationale to allow an open door policy as to who may oversee the CE of its licensees. The board wants to ensure "adequate oversight" but fails to establish any criteria to judge who is suitable to provide CE to its licensees.

**Staff Suggested Response:** Staff disagrees as the proposed regulations do not impose an "open door policy" on who may oversee CE of its licensees. Authority is given to the board (staff and the Executive Officer) to approve or deny approval for provider and course applications. Authority is also given to the Executive Officer to withdraw approval for courses or providers. Oversight criterion is not required to be included in regulation and may be implemented through board policy.

**ai)** Section 362(c) – The second sentence of subsection (c) and subsection (d) both address the same topic; approval of a provider is for a two-year period and must be renewed. LCCW recommends striking the second sentence of subparagraph (c) and adopting the modified language of subparagraph (d) suggested in item 37 below.

**Staff Suggested Response:** Staff agrees in part with this comment. Both subparagraphs address renewal of provider status; however, the second sentence in subparagraph (c) pertains to existing providers approved prior to the effective date of these regulations and subparagraph (d) pertains to new providers who were approved subsequent to the effective date of these regulations.

**aj)** Section 362(c)(1) – LCCW suggests the language be amended to state, "Providers approved by the board prior to [effective date of regulation] are deemed approved for a two (2) year period.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. It is unclear why LCCW is requesting this change. Their suggested change would reduce the length of time before renewal is due for existing providers than what is stated in the proposed regulations.

**ak)** Section 362(d) – There is no application and fee referenced in this subsection. LCCW suggests the this section be rewritten as, "(d) Approval of a provider shall expire two (2) years after it is issued by the board and may be renewed upon the filing of an application pursuant to section 362(c) and payment of the renewal fee specified in section 360(b).

**Staff Suggested Response:** Staff accepts this comment, in part, and has amended Section 362 to clarify the renewal fee requirements.

**al)** Section 362(e)(2) - The board has not demonstrated any rationale for requiring or requesting e-mail address information from licensees attending CE courses.

**Staff Suggested Response:** E-mail is a widely accepted standard form of communication which is less costly than sending communication through the US Postal Service. E-mail addresses given to the board will be considered private and will not be distributed to other entities. E-mail may be used by the board to contact licensees for auditing purposes.

**am)** Section 362(e)(4) - The attendance report should include mailing address, number of hours earned, and category of hours earned.

**Staff Suggested Response:** Staff agrees with this comment, in part. The board does not need mailing addresses of licensees as this information is already on file with the board. Staff has amended Section 362(e)(6) for board consideration to require providers to retain records of course completion. Certificates of course completion are required to include the number of hours earned and whether the hours were earned in a classroom or through distance learning.

**an)** Section 362(e)(4) – Subsection (e) is a list of what a provider "shall do", yet the second sentence lists actions a provider "may not do". Banned behavior does not belong in a proscribed list of mandated "duties and responsibilities."

**Staff Suggested Response:** Staff agrees and has amended Section 362 for board consideration.

**ao)** Section 362(e)(4) – This section is open for interpretation. May the course instructor take an instructional break and show an "infomercial" for the program underwriter's product on the presentation screen? May the instructor cover or drape over products for sale when instruction begins? Can an instructor teaching a chiropractic adjusting technique that requires a specific adjusting instrument, table or analytic tool use these tools during instruction?

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. This section clearly states that providers may not advertise, market, or display materials or items for sale inside the room while the actual instruction is taking place. This sentence does not prohibit these actions during breaks, nor does it prohibit an instructor from covering products for sale during instruction. The intent of this sentence is to ensure licensees receive CE credit for instruction time prescribed in Section 363 in an approved course rather than a "sales pitch" for chiropractic products or services. Staff has amended Section 362 for board consideration to allow instructors teaching a chiropractic adjusting technique that requires a specific instrument, table or tool to use these items during instruction.

**ap)** Section 362(e)(4) - The board has not set forth any rationale for banning the display of materials for sale at a seminar offered by providers it specifically approves.

**Staff Suggested Response:** Staff disagrees with this comment. The display of materials for sale at seminars has not been banned, but rather prohibited during instruction time to ensure licensees receive CE credit for adequate instruction time prescribed in Section 363 for the course rather than a "sales pitch" for chiropractic products.

**aq)** Section 362(e)(6) - The attendance verification form should include whether the hours were earned in the classroom or via distance education.

**Staff Suggested Response:** Staff agrees with this comment and has amended Section 362 for board consideration to require certificates of completion to reflect whether CE credit was earned in the classroom or via distance learning.

**ar)** Section 362(f) – It is uncertain what might be deemed a "substantial reason" for withdrawal.

**Staff Suggested Response:** Staff agrees with this comment and has amended Section 362 to clarify the board's authority to withdraw approval of providers.

**as)** Section 363(a) - The language addressing when an application must be filed was deleted.

**Staff Suggested Response:** Staff agrees with this comment and recommends the board amend this section to require submission of course applications at least 45 days prior to the date of the course.

**at)** Section 363(a) - The board has provided no rationale for limiting a course to 12 hours in length.

**Staff Suggested Response:** Staff accepts this comment and has removed the 12 hour limitation of a course. The board wants to ensure licensees do not receive credit for more than 12 hours on a specific date rather than limiting a course to only 12 hours in its entirety.

**au)** Section 363(a) – There is no reason to divide a coordinated program of instruction into twelve hour units thereby increasing the expenditure of the sponsor and board staff time.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The purpose of CE is to keep licensees up to date on current industry standards and promote consumer protection. The board does not believe licensees will retain course information to achieve the purpose of CE if courses are more than 12 hours in length on a specific date.

**av)** Section 363(a) – Multiple applications and duplication of paperwork is not required for conventions produced by any entities approved under CCR section 361(b). The June 24-27, 2010 podiatry convention at Disneyland is approved by the California Podiatric Medical Association. The Board of Podiatric Medicine "automatically" approves any program offered by that association. Pursuant to the language proposed here, the chiropractic board will accept this program for chiropractic relicensure credits without scrutiny. Where is the rationale?

**Staff Suggested Response:** Staff disagrees with this comment. Not all topics at a podiatric conference will fall under the course categories 1-16 in Section 361. The board will grant only 18 hours of CE credit for courses taken by providers specified in Section 361(f). Furthermore, the licensee will have to show documentation of attendance at courses in subject areas 1-16 listed in Section 361. It is unlikely that the licensee would attend a four-day podiatric conference because few topics would qualify for CE credit under the proposed regulations.

**aw)** Section 363(a) – If the board is concerned that licensees will experience learner "burn out", that has been more appropriately addressed in subsection 357(c)(1) which places a 12 hour limit on CE credit that may be awarded to a licensee in one day. The board should consider only what is being taught and the credentials of the instructors – not the duration of the program itself.

**Staff Suggested Response:** Staff agrees with this comment and recommends the board remove the words, "up to 12 hours in length". The board is concerned about the length of time licensees spend in a class each day. The purpose of CE is to keep licensees up to date on current industry standards and promote consumer protection and the board does not believe licensees will retain course information to achieve the purpose of CE if courses are more than 12 hours in length on a specific date.

**ax)** Section 363(c)(2) – There are inconsistencies in the terms used throughout the regulations: "twenty-four (24) hours of board approved continuing education courses" [CCR § 361(a)]; "twelve (12) continuing education hours" [CCR § 361(a)];"Continuing education credit" [CCR § 363(c)(2)]; "course hour" [CCR § 363(c)(2)]; and "coursework" [CCR § 363(c)(2)].

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. These terms are not interchangeable and it would not be appropriate to use the same term in each of these examples. The terms used are appropriate to the context of these sections.

**ay)** Section 363(c)(2) – The 50 versus 60 minute hour has been an issue for the board and providers for years. More clarification is needed to avoid applying underground regulations. LCCW provides an excerpt of BCE CE criteria regarding breaks.

**Staff Suggested Response:** The document LCCW refers to was created in 2006 by former board staff and was likely intended to serve as a guideline for CE providers and licensees. Current board staff is not applying these policies and the document has been removed from the board's website.

**az)** Section 363(c)(2) – How are providers to verify at least 50 minutes of participation per every 60 minutes when the board only requires them to provide a sign in sheet for licensees at the start and end of the day?

**Staff Suggested Response:** This section requires providers to verify licensees' participation in a CE course, but does not dictate the method providers must use. The board wanted to give providers flexibility in how they monitor their courses to ensure participation.

**ba)** Section 363(c)(2) - An Individual attending a class posing as someone other than him/herself is considered forgery and fraud, not perjury. The appropriate place for licensees to aver, under penalty of perjury, that s/he has completed the required CE is on the Renewal Application.

**Staff Suggested Response:** Staff partially accepts this comment and made a clarifying change to Section 363(c)(2) for board consideration; however, this section assumes the licensee did

personally sign the sign-in sheet declaring they were present for the duration of the course. If a licensee and another individual conspired to commit fraud, the substantiated violation would result in discipline of the license.

**bb)** Section 363(d) - The board would not approve a course in financial management, income generation, practice building, collections, self-motivation or patient recruitment offered by a chiropractic association or college, but would grant credit for the same course offered by a provider for the Acupuncture or Podiatry board.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board would not grant credit to a licensee for any of these subject matter areas, regardless of who the provider is, because they do not fall under the subject matter areas specified in subparagraphs 1-16 of Section 361.

**bc)** Section 363(e) – Define "material change" and "as soon as possible". There is no criterion for the Executive Officer to make a determination whether a new application is required.

**Staff Suggested Response:** If significant changes are made to course content, the course may no long qualify for approval. The board, through its Executive Officer, must make these determinations on a case by case basis. As soon as possible means what it states. It is impossible to determine how long in advance changes can be made as changes can occur at any time prior to the date of the course. The board needs providers to notify us as soon as they are aware of a change so that the board has sufficient time to review the revised course material. Staff suggests replacing "material" with "substantive" for clarity.

**bd)** Section 363(f) – Define "substantial reason".

**Staff Suggested Response:** Staff agrees that this term is vague and has made clarifying changes to Section 363(f) for board consideration.

**be)** Section 363.1 – This section does not address whether distance learning must be approved.

**Staff Suggested Response:** Staff accepts this comment and has revised Section 363.1 for board consideration to clarify distance learning must be approved.

**bf)** Section 363.1(f) – Minutes from the October 22, 2009 board meeting indicate the language should have been amended to replace "current professional standards" with "current and relevant information".

**Staff Suggested Response:** Staff accepts this comment and recommends replacing "they meet current professional standards" with "the content is current and relevant".

**bg)** Section 364(a) – Subsection (a) provides that "the following licensees are exempt, entirely or in part, from the continuing education requirements. The eight subsections that follow list a mixture of exemptions, partial credits and accommodations. LCCW recommends breaking down this section into subsections (a) licensees who are exempt, (b) licensees who may receive credit for teaching activities, and (c) licensees who may be granted accommodation, for clarity purposes.

**bh)** Section 364(a)(2) – Recommends this section be amended for clarity to state, "(a) The following individuals are exempt from the continuing education requirements of section 361: (1) Inactive licensees; (2) New licensees in the first renewal period.

**Staff Suggested Response to Comments 33 (bg) & (bh):** Staff agrees that this section should be modified for clarity purposes, and has made clarifying changes to Section 364 for board consideration.

**bi)** Section 364(a)(3) – Current regulation exempted any full-time teacher from CE requirements. The board has not provided any rationale or evidence for the proposed restrictions on tenure, courses taught or the limit on the hours the instructors may earn through their teaching activities.

**Staff Suggested Response:** The board does not wish to grant credit to an instructor who has not had at least 1 year of teaching experience because they want to ensure the instructor has gone beyond the basic knowledge required for licensure. Further, the board believes credit should be granted to instructors who teach core curriculum courses of more than 8 hours per week for at least 6 months in order to ensure that the instructor was not engaged in part-time work, but instead as a full-time instructor.

**bj)** Section 364(a)(3) – The regulation uses the term "core curriculum" which does not have a meaning generally familiar to those 'directly affected' by the regulation [CCR § 16(a)(3)], and the term is not defined in the Initiative Act, the statutes or the regulations governing chiropractors.

**Staff Suggested Response:** Core curriculum courses include any of the courses listed in CCR Section 331.12.2.

**bk)** Section 364(a)(5) – The accommodation for physical disabilities should be extended to licensees experiencing a temporary disability.

**Staff Suggested Response:** Staff agrees and recommends the board accept this comment. This section is not restricted to permanent disabilities. This subparagraph states, in part, "the licensee "may" earn all 24 hours of CE credits". The word "may" gives the board flexibility to approve CE credit for disabilities certified by a primary health care provider whether the disability is permanent or temporary.

**bl)** Section 364(a)(7) – Board members should not receive a full exemption from CE. They should only receive 4 hours extended to other licensees who attend board meetings.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. This section provides for a one-year exemption for board members for each year of service rather than a full exemption. This subparagraph has not had any substantive changes from what is currently in place and cannot be revised by vote at this time, except to be eliminated.

**bm)** Section 365 – This section more properly belongs with sections 370 through 372 that deal with license renewal and restoration.

**Staff Suggested Response:** This section gives the Board authority to impose a CE requirement as a condition of restoring a revoked license, and is appropriately placed in Article 6 which addresses CE requirements.

**bn)** Section 365 - The board does not have an application to reinstate or restore a revoked license which is referenced in this section; however, it has a Petition for Reinstatement of Revoked License. The regulation and forms should be consistent.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board had not made any substantive changes to this section from what is currently in place, nor has the board incorporated the Petition for Reinstatement of a Revoked License form by reference which would require consistency in the form title.

**bo)** Section 365 – This section incorrectly refers to "reinstatement or restoration of a license which has been revoked…". The board does not "reinstate or restore a revoked license, but instead may "reissue said license to the person affected". The regulation and forms should use the appropriate term, "reissue".

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Reissue, reinstate, and restore are interchangeable terms.

**bp)** Section 365 - The regulation incorrectly refers to "making application for reinstatement or restoration of a license which has been…suspended." The board does not have a petition form to reinstate or restore a suspended license. Unless the board is meting out suspensions of greater than one year duration, such a petition would be moot as Government Code Section 11522 requires a one-year wait to petition the board to reduce any penalty.

**Staff Suggested Response:** Staff agrees and recommends the board remove the word "suspended" from this section.

**bq)** Section 366 – There is no need to mandate how long licensees keep their attendance records. As currently written, failure to retain documentation could constitute unprofessional behavior under CCR §317(m) for violating "any provision or terms of the Act or regulations adopted by the board thereunder."

**Staff Suggested Response:** Staff disagrees with this comment. The board expects licensees to retain attendance records for the same period of time as providers for auditing purposes.

**br)** Section 366 – There are two sections that address the issue of the licensee submitting attendance records to the board (Section 366 and Section 361(c)).

**Staff Suggested Response:** Staff accepts this comment and suggests the board eliminate Section 361(c).

**bs)** Section 366 – This section provides that if a licensee fails to keep the required continuing education documents, s/he "shall" obtain duplicate documents from Board-approved CE providers. The regulation is silent on duplicate documents for course hours obtained at courses approved by other Healing boards/bureaus under section 356(11).

**Staff Suggested Response:** Staff agrees with this comment and has amended this section to include all approved providers.

**bt)** Section 366 – The proposed language provides for a harsh penalty if a provider presents false or inaccurate verification of a licensee's participation, which could be the result of a simple clinical error.

**Staff Suggested Response:** The board disagrees and rejects this comment. There are two levels of appeal, including an informal hearing before the Executive Officer of the board and a second hearing before the board members; therefore, the Executive Officer does not make the final decision on provider application denials or withdrawal of provider status. Action taken against a provider will be relative to the severity of the violation.

**bu)** Section 366 – There is no process for appealing the Executive Officer's decision. The referenced regulation addresses denial of a CE course application.

**Staff Suggested Response:** Staff agrees with this comment and recommends replacing the reference to Section 363(b) with Section 363(f).

**bv)** Sections 370 through 372 – It is illogical to place license renewal fees in Article 7.5 which follows Article 7 (chiropractic corporations). A reasonable alternative would be to place these 3 sections at the beginning of Article 6 and change the heading to License Renewal and Continuing Education".

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Although CE is a requirement for license renewal, licensing fees, applications, and forms required for different license statuses are unrelated to CE. Similarly, CE provider and course requirements, applications, and fees are separate components which are unrelated to license renewals.

**bw)** Section 370(c) - The Initial Statement of Reasons states that regulations were amended to increase the application fees for licensees to restore their license from inactive to active status. The application fee to restore an inactive license to an active license came about through an underground regulation contained on the form. The board has failed to provide the proper authority note and to justify the $35 fee to restore an inactive license to active status.

**Staff Suggested Response:** Staff agrees and recommends the board amend this section for consistency with BPC § 704.

**bx)** Section 370(c) – The proposed $35 fee to return a license to active status is inconsistent with BPC §704(a) that only requires the license to "pay the renewal fee."

**Staff Suggested Response:** Staff agrees and recommends the board amend this section for consistency with BPC § 704.

**by)** Section 371(a) – Section 10 of the Act addresses reissuance (not renewal) of a license after disciplinary action.

**Staff Suggested Response:** Staff agrees with this comment and has amended the language to reference disciplinary license restoration conditions.

**bz)** Section 371(a) – The regulations should define "Active License".

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. A license in active status has no restrictions placed upon it and is current with regard to the renewal requirements; therefore, an active license does not require a definition in regulation.

**ca)** Section 371(a) – The regulation states that in order to renew a license (active/inactive) or to restore a license (forfeited/cancelled), the licensee shall complete "either" of several forms. "Either" is used when there are only two options available – the board has listed four.

**cb)** Section 371(a) - The run on sentence addressing several license renewal/restoration conditions and listing four separate renewal/restoration/status change forms to use is confusing and not easily understood by those persons 'directly affected' by them.

**cc)** Section 371(a) - The regulation directs that the "renewal and restoration application and fee shall be submitted to the board *prior to the expiration date of the license*." An application for *restoration* is filed *after the license expiration date* because the license is either forfeited (not renewed within 60 days of expiration) or cancelled (not renewed with 3 years of expiration).

**Staff Suggested Responses to Comments 33 (ca) – (cc):** Staff agrees with these comments and has made clarifying changes to Section 371 for board consideration.

**cd)** Section 371(a) – The names of the two forms incorporated by reference are inconsistent with the names on the forms submitted (Renewal and Forfeiture Forms).

**Staff Suggested Response:** Staff agrees with this comment and has amended this section to address these concerns.

**ce)** Section 371(b) – It is unclear whether the additional criteria of subsection (b) only apply to applicants seeking restoration of a forfeited/cancelled license versus a simple renewal in active/inactive status.

**Staff Suggested Response:** Staff accepts this comment and has made clarifying changes to Section 371 for board consideration.

**cf)** Section 371(a)(3) - This subsection defines 'cancelled license' as a "license that has been expired for a period of three (3) consecutive years." This creates a second type of 'cancelled' license as section 10(c) of the Initiative Act refers to "revocation or cancellation of a license or registration under this section" (after formal disciplinary proceedings). Both types of 'cancelled license' are interpreted by the board to be subject to the two-year wait imposed by section 10(c) of the Initiative Act. The intent of Section 10(c) was to prevent the board from revoking/canceling a license in a disciplinary action and then immediately restoring the license. The voters did not intend to put a two year hold on a chiropractor trying to revive a license s/he allowed to lapse after leaving the state or retiring from practice.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Section 10 of the Chiropractic Initiative Act is specific to reissuance of licenses which have been denied, suspended or revoked. Although Section 10 refers to cancellation of a license, the only action the board would take through discipline is denial, suspension or revocation of a license. Section 371 of the California Code of Regulations is specific to non-disciplinary license renewal; therefore, Section 10(c) of the Initiative Act is irrelevant. The two-year wait imposed by Section 10

of the Initiative Act is applicable only to licenses which have been revoked, as the board would not use cancellation as a form of discipline against a license.

**cg)** LCCW recommends adding "revocation" to this section.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The board cannot take further disciplinary action against a licensee whose license has been revoked as the board loses its jurisdiction over the licensee once the license is revoked.

**ch)** The forms incorporated by reference do not comply with the provisions of Government Code Section 11346.2(a)(3) or CCR, Title 1, Section 8 requiring the agency to use underline or italics to indicate additions to, and strikeout to indicate deletions from , the CCR.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The forms included in this proposal are not currently incorporated into the California Code of Regulations and do not require such notations.

**ci)** CE Course Application - The instructions list specific requirements for the syllabus/course schedule yet the board has not identified why each item is necessary.

**Staff Suggested Response:** Staff accepts this comment and recommends the syllabus/course requirements be incorporated into Section 363. The request for these documents is a standard practice which is currently in place. These documents are necessary to provide the board with essential information needed to evaluate the CE course for approval.

**cj)** CE Course Application - The instructions require the submission of copies of the course brochure and all promotional material to be used. There is no rationale to require a sponsor to spend money to prepare marketing materials for a seminar that has not yet been approved.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. These documents are necessary to provide the board with essential information needed to evaluate the CE course for approval. These documents are reviewed by the board to ensure the information provided to the public is consistent with the content specified on the course application.

**ck)** CE Course Application - The instructions dictate what must be included in an instructor's curriculum vitae. No reason has been elucidated for requiring such specific information.

**Staff Suggested Response:** Staff accepts this comment and recommends the curriculum vitae requirements be incorporated into Section 363. The request for this information is a standard practice which is currently in place. This information is necessary to provide the board with essential information needed to evaluate the CE course for approval. The board requires instructors to submit curriculum vitas as part of the course application to ensure their education and experience are relevant and sufficient to teach the proposed course(s) listed on the course application.

**cl)** CE Course Application - The board requires that "Providers shall complete and provide a certificate of completion to licensees who completed the CE course in a timely manner following the seminar." Who determines 'a timely manner'?

**Staff Suggested Response:** Staff agrees with this comment and recommends the board specify that certificates of completion shall be provided to the licensee within 30 days following completion of a continuing education course in Section 362 and on the CE Course Application.

**cm)** CE Course Application - The form includes the following instructions: DO NOT distribute blank or incomplete certificates. DO NOT send certificates to the board. What are the consequences of disobeying either mandate? Could this be an "other substantial reason" that allows the Executive Officer to withdraw provider approval?

**Staff Suggested Response:** The statement on the CE Course Application regarding distribution of incomplete certificates is consistent with the requirements in Section 362(e)(6) which specifies information the provider must include on the certificate of completion. In order to ensure accuracy, the certificates must be completed by the provider. The statement on the application regarding sending certificates to the board is intended to advise providers that the board does not require copies of every certificate issued by a provider. If circumstances warrant the board's need for a certificate of completion, the board will request a copy of the certificate from a provider in writing pursuant to Section 362.

**cn)** CE Course Application – The form sets forth a 45-day deadline, which is not contained in the regulations.

**Staff Suggested Response:** Staff accepts this comment and recommends adding a requirement for providers to submit course applications at least 45 days prior to the date of the course.

**co)** CE Course Application – The form requires: "If instructor holds a professional license, the Provider must ensure that the license is in good standing." The board has access to the FCLB's CIN-BAD database and already performs this task. Why is it incumbent on the provider to duplicate this work?

**Staff Suggested Response:** The provider's responsibility is to ensure instructors are qualified to teach the courses offered by the provider. Additionally, the board cannot access this database for instructors licensed by another board or bureau. If the board discovers that an instructor's license is not in good standing, the course application will be denied and providers will be required to submit a new application and fee to receive course approval.

**cp)** CE Course Application - The form requires: "Indicate on a separate sheet of paper if there has ever been any disciplinary action taken against any professional license or any criminal conviction." Providers do not have access to DOJ or FBI criminal record information and cannot comply with this requirement.

**Staff Suggested Response:** Staff agrees with this comment and recommends removing this requirement from the CE Course Application. Verification of a license in good standing should be sufficient to ensure the instructor does not have any criminal convictions substantially related to the scope of their license.

**cq)** CE Course Application – The "sample certificate" should include the type of mandatory hours the licensee earned.

**Staff Suggested Response:** Staff accepts this comment and has amended the sample certificate to include the type of mandatory hours.

**cr)** CE Course Application – It is unclear whether providers must use this form for approval of distance learning courses.

**Staff Suggested Response:** Staff accepts this comment and has amended Section 362 to include distance learning.

**cs)** Inactive to Active Status Application – The board has not provided a justification for the $35 fee.

**Staff Suggested Response:** Staff accepts this comment and recommends the Inactive to Active Status Application be amended for consistency with BPC § 704.

**ct)** Inactive to Active Status Application – The proposed language requires the holder of an inactive license to meet one of three criteria. This is inconsistent with Business and Professions Code § 704, which allows a licensee to restore the inactive license to active status by completing "continuing education equivalent to that required for a single license renewal period."

**Staff Suggested Response:** Staff agrees and recommends the Inactive to Active Status Application be amended for consistency with BPC § 704.

**cu)** Inactive to Active Status Application – The Yes/No check boxes for "Law Violations" ask whether the licensee has been convicted of ANY violations of law. Section 371 allows licensees to omit "traffic infractions that resulted in fines of less than five hundred dollars ($500) that did not involve alcohol, dangerous drugs, or controlled substances."

**Staff Suggested Response:** Staff accepts this comment and recommends amending the application to include the omission of traffic infractions specified in Section 371.

**cv)** Application for Restoration of License - LCCW suggests this form be renamed "Application for Restoration of Forfeited or Cancelled License" to clarify which licenses are "restored" as opposed to "renewed".

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The proposed regulations are clear as to which form(s) must be completed for each license status; therefore, it is not necessary to change the name of the form.

**cw)** Renewal Form - The name on the form differs from the name referenced in section 371(a).

**Staff Suggested Response:** Staff accepts this comment and has amended the proposed language to reflect "Renewal" form.

**cx)** Renewal Form – The section titled "Continuing Education Requirements" incorrectly references CCR §356(a).

**Staff Suggested Response:** Staff accepts this comment and has amended the form to reference to CCR §361(a).

**cy)** Renewal Form - The section titled "Law Violations" instructs a licensee to "provide a detailed explanation of each incident with your renewal each five year for five years [sic] from the date of conviction." This language is unclear, lacks necessity and authority.

**Staff Suggested Response:** Staff agrees that the language is unclear and recommends this paragraph to be revised for clarity. Staff disagrees that the language lacks necessity and authority. Section 10(b) of the Chiropractic Initiative Act allows the board to refuse to grant, suspend or revoke a license to practice chiropractic for a plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense substantially related to the practice of chiropractic.

**cz)** Renewal Form - The Yes/No check boxes for "Law Violations" ask whether the licensee has been convicted of ANY violations of law. Section 371 allows licensees to omit reporting "traffic infractions that resulted in fines of less than five hundred dollars ($500) that did not involve alcohol, dangerous drugs, or controlled substances."

**Staff Suggested Response:** Formatting limitations prevent the board from including the exemption in the check box portion of the application. If a licensee indicated that they had a law violation, and the nature of the violation fell into the exempt category, the board would disregard the violation. Staff recommends amending the paragraph titled "Law Violations" to include the exemption specified in Section 371 for clarification.

**da)** Renewal Form – The box for "Exempt Renewal" references 12 hours of CE.

**Staff Suggested Response:** Staff accepts this comment and recommends the board replace "12" with "required".

**db)** Renewal Form – The box for "Exempt Renewal" references "exam commissioner". This is not an exemption defined in section 364.

**Staff Suggested Response:** Staff accepts this comment and recommends replacing "Exam Commissioner" with "NBCE Examiner".

**dc)** Forfeiture Form – The name on the form differs from the name reference in section 371(a).

**Staff Suggested Response:** Staff accepts this comment and has amended the proposed language to reflect "Forfeiture Notice" form.

**dd)** Forfeiture Form – The form directs that the "'Amount Due' shown below is to be paid BEFORE THE EXPIRATION DATE of the license." If the board has issued a forfeiture notice, the license has already expired.

**Staff Suggested Response:** Staff agrees with this comment; however, this reference is included in a paragraph titled, "Renewal Fee". This is general information provided on both the Renewal form and the Forfeiture Notice form. Renewal fees are due prior to the expiration date of the license. The Forfeiture Notice clearly identifies the expiration date of the license. The next paragraph titled, "Late Fee", addresses the additional fees due when a license is in forfeiture status; therefore, this paragraph should remain on the Forfeiture Notice form.

**de)** Forfeiture Form - The section titled "Continuing Education Requirements" incorrectly references CCR § 356(a), subsections 3, 5 or 12.

**Staff Suggested Response:** Staff accepts this comment and has made the appropriate reference to CCR § 361(a).

**df)** Renewal Form - The section titled "Law Violations" instructs a licensee to "provide a detailed explanation of each incident with your renewal each five year for five years [sic] from the date of conviction." This language is unclear, lacks necessity and authority.

**Staff Suggested Response:** Staff agrees that the language is unclear and recommends this paragraph to be revised for clarity. Staff disagrees that the language lacks necessity and authority. Section 10(b) of the Chiropractic Initiative Act allows the board to refuse to grant, suspend or revoke a license to practice chiropractic for a plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense substantially related to the practice of chiropractic.

**dg)** Renewal Form - The box for "Exempt Renewal" references "12 hours" of continuing education.

**Staff Suggested Response:** Staff agrees and has recommends replacing "12" with "required".

**dh)** Renewal Form - The box for "Exempt Renewal" references "Exam Commissioner". This is not an exemption defined in section 364.

**Staff Suggested Response:** Staff accepts this comment and recommends replacing "Exam Commissioner" with "NBCE Examiner".

DRAFT

**Board of Chiropractic Examiners**
**Proposed Regulatory Language for**
**Continuing Education & Annual License Renewals**
**California Code of Regulations, Title 16, Division 4, Articles 6 and 7.5**

In order to avoid confusion and make it easier for the Board members and the public to discern the changes from the 45-day comment period to this public meeting, the underline and strikeout from the original proposed language are not repeated here. Only the proposed new changes to the regulation made subsequent to the 45-day comment period are clearly indicated. Additions to the last-noticed 45-day comment period regulation text are shown below in underline. Deletions from the last-noticed 45-day comment period regulation text are shown below in strikeout. (For purposes of comparison, copies of the prior noticed version of this regulation is available on the Board's website at http://www.chiro.ca.gov/business/rulemaking.html and is also available upon request.)

## Article 6. Continuing Education

### § 360. Continuing Education Fees.

The following represents fees for continuing education:

(a) Continuing Education Provider Application Fee: $75

(b) Biennial Continuing Education Provider Renewal Fee: $50

(c) Continuing Education Course Application Fee: $50 per course. A course is defined in Section 363.

### § 361. Continuing Education Requirements.

(a) For purposes of Articles 6 and 7.5, "implementation date" means two years following [insert the effective date].

(b) For license renewals that expire on or after ~~two years from *[insert effective date of this regulation]*~~ the implementation date, the number of required hours of board approved continuing education courses shall be twenty-four (24) ~~hours of board approved continuing education courses~~. For license renewals that expire prior to the implementation date, the number of required hours of board approved continuing education courses shall be twelve (12).

(c) For license renewals that expire on or after the implementation date, ~~Effective one year from *[insert effective date of this regulation]*~~ a maximum of twelve (12) continuing

education hours may be completed through distance learning as defined in Section 363.1~~, and authorized by the board~~. For license renewals that expire prior to the implementation date, a maximum of six (6) continuing education hours may be completed through distance learning as defined in Section 363.1.

(d) Any continuing education hours accumulated before [*insert the effective date of this regulation*] that meet the requirements in effect on the date the hours were accumulated, will be accepted by the board for license renewals.

(e) On or after the implementation date, ~~L~~licensees shall complete a minimum of two (2) hours in subparagraph 11 – Ethics and Law, a minimum of four (4) hours in any one of, or a combination of, the ~~courses~~ subject areas specified in subparagraph 3 – History Taking and Physical Examination Procedures, subparagraph 5 – Chiropractic Adjustive Technique or Chiropractic Manipulation Techniques, or subparagraph 10 – Proper and Ethical Billing and Coding, and eighteen (18) hours ~~additional continuing education courses~~ in any of the ~~following~~ subject areas ~~matters~~ listed in subparagraphs 1 through 16.~~:~~

1. Philosophy of chiropractic, including the historical development of chiropractic as an art and science and health care approach; the vertebral subluxation complex and somato-visceral reflexes including their relationships between disease and health; and other chiropractic theory and philosophy.

2. Instruction in basic sciences of anatomy, histology, neurology, physiology, nutrition, pathology, biochemistry ~~and~~ or toxicology.

3. Instruction in various basic to comprehensive history taking and physical examination procedures, including but not limited to orthopedic, neurological and general diagnosis related to evaluation of the neuro-musculoskeletal systems, and includes general diagnosis and differential diagnosis of all conditions that affect the human body.

4. Diagnostic testing procedures, interpretation and technologies that aid in differential diagnosis of all conditions that affect the human body.

5. Chiropractic adjustive technique or chiropractic manipulation techniques.

6. Pain management theory, including, but not limited to, current trends in treatment and instruction in the physiology and anatomy of acute, sub-acute and chronic pain.

7. Physiotherapy

8. Instruction in Manipulation Under Anesthesia including the safe handling of patients under anesthesia.

9. Instruction in the aspects of special population care, including, but not limited to, geriatric, pediatric, and athletic care as related to the practice of chiropractic.

10. Instruction in proper and ethical billing and coding, including accurate and effective record keeping and documentation of evaluation, treatment and progress of a patient. This is not to include practice building or patient recruitment/retention or business techniques or principles that teach concepts to increase patient visits or patient fees per case.

11. Ethics and law: including but not limited to: truth in advertising; professional boundaries; mandatory reporting requirements for child abuse/neglect, elder abuse/neglect; spousal or cohabitant abuse/neglect; sexual boundaries between patient and doctors; review of the specific laws, rules and regulations related to the practice of chiropractic in the State of California.

12. Adverse event avoidance, including reduction of potential malpractice issues.

13. Pharmacology, including side effects, drug interactions and the pharmodynamics of various commonly prescribed and over-the-counter drugs; drug reactions and interactions with herbs, vitamins and nutritional supplements; blood and urinalysis testing used in the diagnosis and detection of disease, including use of and interpretation of drug testing strips or kits utilizing urinalysis, saliva, hair and nail clippings.

14. A licensee may earn up to a maximum of two (2) hours of continuing education credit in cardiopulmonary resuscitation, basic life support ~~and~~ or use of an automated external defibrillator.

15. Board Meeting: A licensee may earn a maximum of four (4) hours of continuing education credit per renewal period for attending a full board meeting that includes the hearing of cases related to petitioners seeking the reinstatement of revoked licenses or early termination of probationary licenses. A petitioner may not earn any continuing education hours for attending a board meeting on the same day in which said petitioner's hearing is conducted. The attendance of a licensee at a board meeting under this subparagraph shall be monitored and confirmed by board staff designated by the Executive Officer.

16. Any of the following as related to the practice of chiropractic:

    A) Principles of practice.

    B) Wellness. (prevention, health maintenance)

    C) Rehabilitation.

    D) Public health.

(~~b~~f) With the exception of the mandatory courses specified in subdivision (~~a~~e), the remaining continuing education requirements may be met by taking continuing education courses, including distance learning, that are approved by either of the following:

1) The California Department of Industrial Relations, Division of Workers Compensation.

2) Any Healing Arts Board or Bureau within Division 2 of the Business and Professions Code or approved by any organization authorized to approve continuing education by any Healing Arts Board or Bureau in Division 2 of the Business and Professions Code.

~~(c) The licensee will be required to submit proof of attendance, including date of course, location, and number of hours attended upon request.~~

(~~d~~g) The continuing education providers and courses referenced in ~~this~~ subdivision (f) do not need to be approved by the Board for credit to be granted.

**§ 362. Continuing Education Provider Approval, Duties, and Responsibilities.**

(a) CONTINUING EDUCATION PROVIDER DENIAL AND APPEAL PROCESS: If an application is denied under this section, the applicant shall be notified in writing of the reason(s) for the denial. The applicant may request an informal hearing with the Executive Officer regarding the reasons stated in the denial notification. The appeal must be filed within 30 days of the date of the denial notification.

The Executive Officer shall schedule the informal hearing within 30 days of receipt of the appeal request. Within 10 days following the informal hearing, the Executive Officer shall provide written notification of his or her decision to the denied applicant. If the Executive Officer upholds a denial under this section, the applicant may, within 30 days of the date of the Executive Officer's denial notification, request a hearing before the board to appeal the denial. The Executive Officer shall schedule the requested hearing at a future board meeting but not later than 180 days following receipt of the request. Within 10 days of the hearing before the board, the Executive Officer shall provide written notification of the board's decision to the applicant. The board's decision shall be the final order in the matter.

(b) As used in this section, a provider is an individual, partnership, corporation, professional association, college or any other entity approved by the board to offer board approved continuing education courses to licensees to meet the annual continuing education requirements set forth in section 361 of these regulations.

(c)(1) To apply to become an approved provider, an applicant shall complete and submit a "Continuing Education Provider Application" form (Revision date 02/10) which is

hereby incorporated by reference, and pay the ~~required~~ fee specified ~~as provided~~ in ~~s~~Section 360(a). ~~An existing approved Provider shall re-apply every two years from the initial approval date, using the "Continuing Education Provider Application" form (Revision date 02/10) which is hereby incorporated by reference, and pay the required fee per in section 360(b).~~

~~The board will not process incomplete applications nor applications that do not include the correct application fee.~~

~~(1) Providers who were approved by the board prior to the effective date of this regulation shall renew their provider status two years from [*insert the effective date of this regulation*] by filing the required application and fee referenced in this subsection.~~

(2) The approval of the provider shall expire two (2) years after it is issued by the board and may be renewed upon the filing of the "Continuing Education Provider Application" form (Revision date 02/10) and fee specified in Section 360(b).

(3) Providers who were approved by the board prior to the effective date of this regulation shall renew their provider status two years from [*insert the effective date of this regulation*] by filing of the "Continuing Education Provider Application" form (Revision date 02/10) and fee specified in Section 360(b).

(4) The board will not process incomplete applications nor applications that do not include the correct application fee.

~~(*d*) The approval of the provider shall expire two (2) years after it is issued by the board and may be renewed upon the filing of the "Continuing Education Provider Application" form (Revision date 02/10) and fee specified in Section 360(b).~~

(~~e~~d) Providers shall:

(1) Identify an individual responsible for overseeing all continuing education activities of the provider.

(2) ~~Establish and maintain procedures for documenting completion of a course, and shall retain attendance records for four (4) years from the date of course completion, and shall p~~Provide a course roster to the board, within 30 days, upon written request. Course rosters shall include the names of all licensees, license numbers, and e-mail addresses if available. Failure to submit the roster upon written request within thirty (30) days may result in the withdrawal or denial of previous course approval and withdrawal of provider status. Providers shall maintain the course roster for four (4) years from the date of completion of the course.

(3) Maintain course instructor curriculum vitae or resumes for four (4) years.

(4) Disclose to prospective participants the names of the individuals or organizations, if any, who have underwritten or subsidized the course. Providers may not advertise, market, or display materials or items for sale inside the room while the actual instruction is taking place. Nothing in this section shall be interpreted to prohibit a provider from mentioning a specific product or service solely for educational purposes.

(5) Inform the board in writing immediately of any change to the date, time or location of the course.

(6) Establish and maintain procedures for documenting completion of a course, and shall retain attendance records for four (4) years from the date of course completion. Provide a certificate of completion to licensees within 30 days following completion of ~~who completed~~ the continuing education course. Providers shall retain records of course completion for four (4) years from the date of completion and provide records of completion to the Board within thirty (30) days, upon written request. The certificate shall include the following information:

(A) Name and address of provider

(B) Course title ~~approval number~~

(C) ~~Date(s) and location of~~ ~~c~~Course approval number

(D) ~~Licensee name~~ Date(s) and location of course

(E) Licensee name ~~number~~

(F) ~~Identify the number of hours the licensees earned in continuing education.~~ License number

(G) Instructor's printed name and signature

(H) Number of hours the licensee earned in continuing education, including the type of mandatory hours, and whether the hours were obtained in classroom instruction or distance learning.

(f) The Executive Officer, after notification, may withdraw approval of any continuing education provider for good cause, including, but not limited to, violations of any provision of the regulation~~,~~ or falsification of information~~, or other substantial reason~~, and shall provide written notification of such action to the provider. The provider may request an informal hearing with the Executive Officer regarding the reasons for withdrawal of approval stated in the Executive Officer's notification. The appeal must be filed within 30 days of the date of the notification. The Executive Officer shall schedule the informal hearing within 30 days of receipt of the appeal request. Within 10 days following the informal hearing, the Executive Officer shall provide written notification of

his or her decision to the provider. If the Executive Officer upholds his or her decision under this subsection, the provider may, within 30 days of the date of the Executive Officer's notification, request a hearing before the board to appeal the Executive Officer's decision. The Executive Officer shall schedule the requested hearing at a future board meeting but not later than 180 days following receipt of the request. Within 10 days of the hearing before the board, the Executive Officer shall provide written notification of the board's decision to the provider. The board's decision shall be the final order in the matter.

**§ 363. Approval of Continuing Education Courses.**

(a) Providers must complete and submit a "Continuing Education Course Application" form (Revision date 02/10) which is hereby incorporated by reference, and pay the non-refundable application fee as provided by ~~s~~Section 360(c) at least 45 days prior to the date of the course. Providers shall submit and complete one application for each continuing education course being offered. The following documentation shall be submitted with each Continuing Education Course Application:

(1) An hourly breakdown of the continuing education course;

(2) A final copy of the syllabus/course schedule including seminar name, date and location of seminar, instructor(s) name, course description, educational objectives, teaching methods, course schedule/outline, recommended reading (if any), disclosure of expenses underwritten or subsidized by vendors of any goods, supplies or services;

(3) A copy of the course brochure and all other promotional material to be used;

(4) A curriculum vitae for each instructor including the instructor's name and address; the type of educational degree including the name of the college and year the degree was received; license information including status and name of licensing agency; certification including status and name of certifying agency; the type, location and years of practical experience; the type, location and years of teaching experience; the type, location and years of research experience; the type, location and years of other relevant experience; and the title, journal, and date of publications.

A "course" is defined as an approved program of coordinated instruction, ~~up to 12 hours in length~~, in any one of the ~~categories~~ subject areas as defined in Section 361(e) and given by an approved Provider. Once approved, a course may be given any number of times for one year following approval, with the single continuing education course fee paid one time annually by the Provider.

(b) DENIAL AND APPEAL PROCESS: If a course application is denied under this section, the applicant shall be notified in writing of the reason(s) for the denial. The

applicant may request an informal hearing regarding the reasons stated in their denial notification, with the Executive Officer. The appeal must be filed within 30 days of the date of the denial notification.

The Executive Officer shall schedule the informal hearing within 30 days of receipt of the appeal request. Within 10 days following the informal hearing, the Executive Officer shall provide written notification of his or her decision to the denied applicant. If the Executive Officer upholds a denial under this section, the applicant may, within 30 days of the date of the Executive Officer's denial notification, request a hearing before the board to appeal the denial. The Executive Officer shall schedule the requested hearing at a future board meeting but not later than 180 days following receipt of the request.

Within 10 days of the hearing before the board, the Executive Officer shall provide written notification of the board's decision to the applicant. The board's decision shall be the final order in the matter.

(c) Only those courses that meet the following shall be approved:

(1) No more than twelve (12) hours of continuing education credit shall be awarded to an individual licensee for coursework completed on a specific date.

(2) Each hour of ~~C~~continuing education credit shall be based on at least fifty (50) minutes of participation in an organized learning experience~~ per every 60 minutes (1 hour)~~. Class breaks shall be at the discretion of the instructor and~~.~~ ~~Breaks~~ shall not count towards a course hour. Providers shall furnish a sign-in sheet that contains the course date(s), each licensee's name, license number, and designated space for each licensee to sign in at the beginning and conclusion of the course each day. Furthermore, ~~a statement on~~ the form shall state that ~~the~~ a licensee ~~is~~ by signing their name on that sheet, is declaring under penalty of perjury, that they personally attended the stated course, on the listed date(s) and they personally attended the listed hours of course work. Each licensee shall be responsible for signing the "sign-in sheet" at the start and conclusion of each day's coursework, and failure to do so may invalidate credit for that day's coursework. Providers shall retain sign-in sheets for four (4) years from the date of course completion and shall provide copies to the Board within thirty (30) days upon written request.

(d) The board shall not approve the following subjects for continuing education courses: financial management, income generation, practice building, collections, self-motivation, and patient recruitment.

(e) If a provider makes a ~~material~~ substantive change in content of an approved course, he or she shall notify the board as soon as possible of the changes prior to giving the course. A new application may be required as determined by the Executive Officer.

(f) The Executive Officer, after notification, may withdraw approval of any continuing education course for good cause, including, but not limited to, violations of any provision of this regulation~~,~~ or falsification of information ~~or other substantial reason,~~ and shall provide written notification of such action to the provider. The provider may request an informal hearing with the Executive Officer regarding the reasons for withdrawal of approval stated in the Executive Officer's notification. The appeal must be filed within 30 days of the date of the notification. The Executive Officer shall schedule the informal hearing within 30 days of receipt of the appeal request. Within 10 days following the informal hearing, the Executive Officer shall provide written notification of his or her decision to the provider. If the Executive Officer upholds his or her decision under this subsection, the provider may, within 30 days of the date of the Executive Officer's notification, request a hearing before the board to appeal the Executive Officer's decision. The Executive Officer shall schedule the requested hearing at a future board meeting but not later than 180 days following receipt of the request. Within 10 days of the hearing before the board, the Executive Officer shall provide written notification of the board's decision to the provider. The board's decision shall be the final order in the matter.

**§363.1 Distance Learning Courses**

In addition to the applicable requirements of Sections 362 and 363, ~~P~~providers of continuing education courses offered through distance learning formats, including, but not limited to, computer, Internet, manuals, compact disks, digital video, versatile discs, and audio and video tapes, shall meet all of the following:

(a) Disclose course instructors' curriculum vitae or resumes.

(b) Explain the appropriate level of technology required for a student licensee to successfully participate in the course.

(c) Make available technical assistance as appropriate to the format.

(d) Contain security measures to protect the learner's identity, course and related content from unauthorized access.

(e) Establish a deadline for completion.

(f) Review instructional materials annually to ensure the content is current and relevant ~~they meet current professional standards~~.

(g) The continuing education provider shall notify the licensee when he or she is leaving a continuing education site and directed to a promotional or sponsored site. Course material may not endorse ~~M~~manufacturers, distributors, or other sellers of chiropractic products or services ~~may not be endorsed into the course material~~. Nothing

in this section shall be interpreted to prohibit a provider from mentioning a specific product or service solely for educational purposes.

**§ 364. Exemptions and Reduction of Requirement.**

(a) ~~The following~~ A licensee~~s are~~ may qualify for a full or partial exemption~~, entirely or in part,~~ from the continuing education requirements of Section 361 if a licensee meets any of the criterion listed below:~~ of these regulations~~.

(1) A licensee who holds a license on ~~I~~inactive status ~~licentiates~~ is not required to complete continuing education on an annual basis; however, they must provide proof of completion of the required continuing education hours prior to activating their license as specified in Section 371(f);

(2) A ~~N~~new ~~licentiates~~ licensee is exempt from continuing education requirements in the year of initial licensure;

(3) An ~~I~~instructor~~s~~ who ~~have~~ has taught for one (1) year and currently teaches core curriculum courses for more than eight (8) credit hours per week at any Council on Chiropractic Education accredited college for at least six (6) months during any license renewal period year shall be exempt from continuing education.

(4) A ~~L~~licensee~~s~~ who teaches a board-approved continuing education course may earn one (1) hour of continuing education credit for each hour of lecture up to 24 hours per year.

(5) A licensee who is unable to attend continuing education courses due to a physical disability and provides written certification from a primary health care provider may earn all 24 hours of continuing education credits for the period of the license renewal through Board-approved distance learning courses as specified in ~~s~~Section 363.1.

(6) A ~~L~~licensee~~s~~ who participate~~s~~ as an examiner for the entire part four portion of the National Board of Chiropractic Examiners (NBCE) examinations shall receive a maximum of six (6) hours of continuing education credit for each examination period conducted by the NBCE during the license renewal period. The ~~L~~licensee~~s~~ must provide written certification from the NBCE confirming the licensee has met the requirements of this subsection.

(7) An ~~A~~active Board Member~~s~~. A ~~P~~professional board member~~s~~ who ~~have~~ has served one full year on the Board of Chiropractic Examiners shall be exempt from the continuing education requirement in each year of board member service.

(8) A ~~L~~licensees on active duty with a branch of the armed forces of the United States shall be permitted to take all twenty-four (24) hours of required continuing education through board-approved distance learning courses as specified in section 363.1.

## § 365. Revoked or Suspended Licenses.

Any person making application for reinstatement or restoration of a license which has been revoked ~~or suspended may~~ shall be required~~, as a part of the relief granted,~~ to fulfill the continuing education requirements for each year the license was revoked and may be required to complete an approved course of continuing education, or to complete such study or training as the board ~~may require~~ deems appropriate.

## § 366. Continuing Education Audits.

The Board shall conduct random audits to verify compliance with Continuing Education requirements of active licensees. Licensees shall retain ~~documents~~ certificates of completion issued to them at the time of attendance of ~~Board-~~approved Continuing Education courses for a period of four (4) years from their last renewal and shall forward these documents to the Board upon request.

Licensees who fail to retain ~~documents~~ certificates of completion shall obtain duplicate ~~documents~~ certificates, from ~~Board-~~approved Continuing Education providers, who shall issue duplicates only to licensees whose names appear on the providers' rosters of course attendees. The ~~documents~~ certificates of completion shall be clearly marked "duplicate" and shall contain the information specified in Section 362(d)(6)~~licensees' names and license numbers, as well as providers' names, course approval numbers, dates of attendance, and hours earned~~.

Licensees who furnish false or misleading information to the Board regarding their Continuing Education hours shall be subject to disciplinary action. Providers who provide false or inaccurate verification of a licensee's participation may lose their provider status for up to ten (10) years, at the discretion of the Executive Officer. The full board's ruling, as described in section ~~363(b)~~ 362(f), shall be the final order on the matter.

The board or its designee shall not be restricted from inspecting, observing, or auditing any approved chiropractic course in progress, at no charge.

The board, at its discretion, may contact attendees after a continuing education course as part of the board's auditing process to obtain information regarding the quality and content of the course.

## Article 7.5. License Renewal Requirements

### §370. License Renewal Fees.

The following represents fees for license renewals:

(a) Annual license renewal for active and inactive licenses: $150

(b) License restoration: double the annual renewal fee

(c) Inactive to active status license renewal: same as the annual license renewal fee ~~and a $35 application fee~~

### §371. Annual License Renewals and Restoration.

(a) This section shall apply to non-disciplinary license renewal and restoration. Disciplinary license ~~renewal~~ restoration conditions are defined in Article 10 of the Initiative Act.

(b) A license shall expire annually on the last day of the licensee's birth month. For purposes of Articles 6 and 7.5, the following terms have the following meanings:

(1) A "~~l~~License in forfeiture" is a license that has not been renewed within 60 days ~~of~~ following its expiration date.

(2) "Inactive license" has the meaning specified in Business and Professions Code 700.

(3) "Cancelled license" is a license that has been expired for a period of three (3) consecutive years.

(c) To renew an active license ~~or inactive license, or restore a license in forfeiture, or cancelled license~~, a licensee shall complete and submit ~~either~~ a "Renewal" ~~F~~form~~"~~ (R1HDC), ~~an "Inactive to Active Status Application" (Revision date 02/10), an "Application for Restoration of License" (Revision date 02/10), or a "Forfeiture Form" (D1HDC)~~, which is incorporated by reference, ~~and~~ pay the appropriate fee ~~per~~ specified in Section 370 prior to the expiration date of the license, and complete the board's continuing education requirements that were in effect during the license renewal period.

(d) To renew an inactive license, a licensee shall complete and submit a "Renewal" form (R1HDC) and pay the appropriate fee specified in Section 370 prior to the expiration date of the license.

(e) To renew and restore a license in forfeiture, a licensee shall complete and submit a

"Forfeiture Notice" form (D1HDC) and an "Application for Restoration of License" form (Revision date 02/10), which are incorporated by reference, pay the appropriate fees specified in Section 370 and have met one of the following continuing education requirements:

(1) Completed the board's continuing education requirements that were in effect at the time of each license renewal period;

(2) Practiced in another state under an active valid license and completed all continuing education requirements for that state for each license renewal period the license was expired;

(3) Passed the National Board of Chiropractic Examiners (NBCE) Special Purposes Examination for Chiropractic examination within six (6) months prior to submitting the Application for Restoration of License (Revision date 02/10).

(f) To restore an inactive license to active status, a licensee shall complete and submit an "Inactive to Active Status Application" form (Revision date 02/10), pay the appropriate fee specified in Section 370 prior to the expiration date of the license, and complete continuing education equivalent to that required for a single license renewal period.

(g) To restore a cancelled license, a licensee shall complete and submit an "Application for Restoration of License" form (Revision date 02/10), pay the appropriate fee specified in Section 370, and have met one of the following continuing education requirements:

(1) Completed the board's continuing education requirements that were in effect at the time of each license renewal period;

(2) Practiced in another state under an active valid license and completed all continuing education requirements for that state for each license renewal period the license was expired;

(3) Passed the National Board of Chiropractic Examiners (NBCE) Special Purposes Examination for Chiropractic examination within six (6) months prior to submitting the Application for Restoration of License (Revision date 02/10).

(h) ~~To renew a license or inactive license, the renewal and restoration application and fee shall be submitted to the board prior to the expiration date of the license.~~ The board will not process incomplete applications nor complete applications that do not include the correct fee as provided by ~~s~~Section 370.

(i) In addition to any other requirement for renewal or restoration of a license, a licensee shall disclose whether, since the last renewal of his or her license, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country. However, licensees are not required to disclose traffic infractions that resulted

in fines of less than five hundred dollars ($500) that did not involve alcohol, dangerous drugs, or controlled substances.

~~(b) In addition to subdivision (a), an applicant shall have met one of the following:~~

~~(1) Completed the board's continuing education requirements that were in effect at the time for each year the license was expired;~~

~~(2) Practiced in another state under an active valid license and completed all continuing education requirements for that state for each twelve (12) month period or portion thereof the license was expired;~~

~~(3) Passed the National Board of Chiropractic Examiners (NBCE) Special Purposes Examination for Chiropractic examination within six (6) months prior to submitting the license restoration application.~~

## § 372. Continued Jurisdiction of a License.

The suspension, expiration, or forfeiture by operation of law of a license issued by the board, or its suspension, or forfeiture, by order of the board or by order of a court of law, or its surrender without the written consent of the board shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

# Continuing Education Provider Application

## APPLICATION (Provider approval shall expire two years following the approval date)

☐ **New CE Provider Applications -** Submit a complete application package including one original application with the application fee of $75.00.

☐ **CE Provider ~~Biannual~~ Biennial Renewal Reapplication -** Submit a complete application package including one original application with the application fee of $50.00.

## GENERAL INFORMATION

Providers shall identify an individual responsible for overseeing all continuing education activities of the provider.

Providers shall establish and maintain procedures for documenting completion of a course, and shall retain ~~attendance~~ records of course completion for four years from the date of course completion, and shall provide a course roster or records of course completion to the board, within 30 days, upon written request. Course rosters shall include the names of all licensees, license numbers, and e-mail addresses, if available. Failure to submit the roster upon written request within 30 days may result in the withdrawal or denial of previous course approval and withdrawal of provider status.

Providers shall maintain course instructor curriculum vitae or resumes for four years.

Pursuant to California Code of Regulations, Section 356.5(f), the Executive Officer, after notification, may withdraw approval of any continuing education provider for good cause, including, but not limited to, violations of any provision of this regulation~~,~~ or falsification of information ~~or other substantial reason,~~ and shall provide written notification of such action to the provider.

(Rev. 02/10)

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# CONTINUING EDUCATION PROVIDER APPLICATION

**ALL** questions on this application must be answered. **New CE Provider Applications -** Submit a complete application package including one original application with the application fee of $75.00. **CE Provider ~~Biannual~~ Biennial Renewal Reapplication -** Submit a complete application package including one original application with the application fee of $50.00. Please type or print neatly. When space provided is insufficient, attach additional sheets of paper. All attachments are considered part of the application. The Board will not process incomplete applications nor applications that do not include the correct application fee. Provider approval shall expire two years following the approval date.

**FALSIFICATION OR MISREPRESENTATION OF ANY ITEM OR RESPONSE ON THIS APPLICATION OR ANY ATTACHMENT HERETO IS SUFFICIENT BASIS FOR DENYING COURSE APPROVAL**

**Please check the appropriate box:**

☐ **New CE Provider Application - $75** ☐ **CE Provider ~~Biannual~~ Biennial Renewal Reapplication - $50**

| Provider's Name |
|---|
| |

| **Street Address** | | | |
|---|---|---|---|
| **City** | | State | Zip Code |
| **CE Oversight Contact Person** | Telephone Numbers:<br>Residence: ( )<br>Business: ( ) | | Email Address |

## PROVIDER STATUS

| | | | |
|---|---|---|---|
| ☐ Individual | ☐ Corporation | ☐ Health Facility | ☐ University/College |
| ☐ Partnership | ☐ Professional Association | ☐Government Agency | |

| Office Use Only | |
|---|---|
| Receipt No._____ | Date cashiered _____ |

(Rev. 02/10)

# Check Sheet
# Continuing Education Course Application

## APPLICATION (Complete one application for each course title per year)

☐ Submit a complete application package including one original application with the application fee of $50.00 and required documentation described below.

## DOCUMENTATION

☐ Hourly breakdown of CE course

☐ Final copy of syllabus/course schedule -
[must include seminar name, seminar date/location, instructor(s) name, course description, educational objectives, teaching methods, course schedule/outline, recommended reading (if any), disclosure of expenses underwritten or subsidized by vendors of any goods, supplies or services]

☐ Copy of course brochure and all other promotional material to be used

☐ Curriculum Vitae (CV) for each instructor -
[must include name; address; educational degree including college and year; license information including status and name of Board; certification including status and name of Board; type/location/years of practice experience; type/location/years of teaching experience; type/location/years of research experience; type/location/years of other relevant experience; title/journal/date of publications]

## GENERAL INFORMATION

A course is defined in CCR § 363 as an approved program of coordinated instruction in any one of the subject areas as defined in Section 361 and given by an approved Provider. Once approved, a course may be given any number of times for one year following approval, with the single continuing education course fee paid one time annually by the Provider.

Course approval numbers will be assigned for all approved applications. Use this number on all correspondence, CE certificates and requests for cancellation or addition of dates or locations.

Instructor changes require prior notification to the Board with submission of a CV for that instructor.

You must immediately notify the Board of any changes that would affect the date or location of an approved course. Attach a copy of the course approval letter. ~~Dates may be added for the calendar year~~. Topic changes are not permitted and require a new application with fees and attachments.

Providers are required to furnish a sign-in sheet that contains the course date(s), each licensee's name, license number, and designated space for each licensee to sign in at the beginning and conclusion of the course each day. The sign-in sheet shall ~~also include a statement on the form stating~~ state that the licensee is signing their name ~~on that sheet~~, under penalty of perjury, that they personally attended the stated course, on the listed date(s) and they personally attended the listed hours of coursework.

Providers shall complete and provide a certificate of completion to licensees who completed the CE course ~~in a timely manner~~ within 30 days following ~~the seminar~~ completion of the CE course. The certificate shall include the name and address of the provider, course title, course approval number, date(s) and location of the course, licensee name, licensee number, and ~~identify~~ the number of hours the licensee earned in CE, including the type of mandatory hours and whether the hours were taken through distance learning or classroom learning. DO NOT distribute blank or incomplete certificates of completion to attendees. Please DO NOT send copies of certificates of completion to the Board, unless requested to do so. A sample certificate of completion is attached to the application.

Pursuant to California Code of Regulations, Section 357(f), the Executive Officer, after notification, may withdraw approval of any continuing education course for good cause, including, but not limited to, violations of any provision of this regulation~~,~~ or falsification of information ~~or other substantial reason,~~ and shall provide written notification of such action to the provider.

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# CONTINUING EDUCATION COURSE APPLICATION

**Must be a Board approved provider before completing this application.**

**ALL** questions on this application must be answered. Please submit the completed application, supporting documentation and check or money order in the amount of $50.00 for the application fee at least 45 days prior to the first scheduled course date. Please type or print neatly. When space provided is insufficient, attach additional sheets of paper. All attachments are considered part of the application. Incomplete applications or applications with incorrect fees will be returned to the provider during the initial review process. Providers shall submit and complete one application for each CE course offered.

**FALSIFICATION OR MISREPRESENTATION OF ANY ITEM OR RESPONSE ON THIS APPLICATION OR ANY ATTACHMENT HERETO IS SUFFICIENT BASIS FOR DENYING COURSE APPROVAL**

| Provider's Name |
|---|
| |

| **Street Address** | | | |
|---|---|---|---|
| **City** | | State | Zip Code |
| **Contact Person** | Telephone Numbers:<br>Residence: ( )<br>Business: ( ) | | Email Address |

## COURSE TITLE/TOPICS AND HOURS (if different topics are being taught simultaneously, approval for all hours must be obtained)

| Title (Title will appear on the Board's web site.) |
|---|
| |

| **A) Mandatory**<br><br>Ethics and Law, History Taking and Physical Examination Procedures, Chiropractic Adjustive Technique or Chiropractic Manipulation Techniques, Proper and Ethical Billing and Coding | **Number of Hours** | **Classroom** | **Distance Learning** |
|---|---|---|---|
| **B) Other Courses Related to Chiropractic**<br><br>Philosophy of chiropractic, instruction in basic sciences, diagnostic testing procedures and differential diagnosis, pain management theory, physiotherapy, manipulation under anesthesia, special population care, adverse event avoidance, pharmacology, cardiopulmonary resuscitation, principles of practice, wellness, rehabilitation, public health | | | |
| **C) Other (Describe)** | | | |

| Office Use Only | |
|---|---|
| Receipt No._____ | Date cashiered _____ |

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## INSTRUCTORS* (if more than one instructor teaches a particular subject (team teaching), list both on the same line)

| Name | * Type of Degree(s) | License No./State issued** (if applicable) | Topic of Instruction (from list A-C on front page) | Hours |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

***If instructor holds a professional license, the Provider must ensure that the license is in good standing.**
~~**Indicate on a separate sheet of paper if there has ever been any disciplinary action taken against any professional license or any criminal convictions.~~

**TOTAL HOURS** **0.00**
(This total should match with the front page)

## COURSE DATE & LOCATION (attach additional sheet(s) if more space is needed)

| Course Date(s) | City | State |
|---|---|---|
| | | |
| | | |
| | | |
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# SAMPLE CERTIFICATE

Provider's Name
Provider's Address
Provider's City, State and Zip Code
Provider's Phone Number Including Area Code

Course Title
Date of Course
Location of Course (City/State)
Board Approval No. CA-A-_____

I hereby verify that _____, License No. _____ has successfully completed:

Mandatory: _____ hours

Mandatory Topic: _____

Other: _____ hours

The Continuing Education hours identified above were earned through:

Distance Learning ___

Classroom Instruction ___

_____ _____
Instructor's Signature Date

_____
Print Name

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# APPLICATION FOR RESTORATION OF LICENSE

**Instructions:** In order to restore a license, you must submit a completed application with required documentation, and a check or money order in the amount of $300.00 for the restoration application fee.

If your license has been expired for more than three years, you must have your fingerprints scanned at a Livescan facility. Livescan fees are paid directly to the vendor and vary according to location. Livescan facilities and fees may be found at http://ag.ca.gov/fingerprints/publications/contact.htm. If your license has been expired for more than three years and you reside outside of California, you must submit fingerprint cards and an additional $516.00 fingerprint fee with your application. **Restoration and fingerprint fees are non-refundable.**

**Required Documentation:** In addition to the application and fees described above, you must submit documentation that you have met the requirements to restore your license and provide a 2 x 2 photograph taken within 60 days from the filing of this application. (Polaroids will not be accepted.)

**1. Please check the appropriate box:** ☐ Inactive ☐ Active

**Please Print or Type**

| | | | |
|---|---|---|---|
| **Name:** Last | First | Middle | Former |
| **Address:** Number | Street | | |
| **City** | | **State** | **Zip Code** |
| **Telephone:** Residence ( ) | Business ( ) | | |
| **Practice Address: Number** | **Street** | | |
| City | | State | Zip Code |
| Date of Birth | Social Security Number | | |

| |
|---|
| **License No.:** |
| Date of Forfeiture or Cancellation: |

**2. Are you licensed in any other state or country?** ☐ Yes ☐ No If yes, please specify below

| State/Country | Issue Date | License No. | Current Status |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

**3. Chiropractic College you attended:**

| Name of College: | Address | City/State | Zip Code | Graduation Date: |
|---|---|---|---|---|
| | | | | |

**FOR OFFICE USE ONLY**

**Date Cashiered:**_____ **Amount:** _____

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**4. Have you ever been convicted of or pled guilty or no contest to a violation of any law of a foreign country, the United States, any state, or local ordinance? You must include all infractions, misdemeanor and felony convictions, regardless of the age of the offense, including those which have been set aside under Penal Code sections 1000 and 1203.4. (Traffic violations that resulted in fines of less than $500 and did not involve alcohol, dangerous drugs, or controlled substances need not be reported.) If yes, include an explanation and documentation of your criminal court documents (i.e. complaint, minute order, indictment, plea agreement, etc.)**

☐ Yes (Documentation is attached) ☐ No

**5. Are you now on probation or parole for any criminal or administrative violations in this state or any other state or territory? If yes, attach certified copies of all disciplinary or court records.**

☐ Yes (Certified documentation is attached) ☐ No

**6. Have you ever had disciplinary proceedings against any professional license including revocation, suspension, probation, voluntary surrender, or any other proceeding in this state or any other state or territory?**

☐ Yes ☐ No

**7. Do you have a physical or medical condition that currently impairs your ability to practice safely?**

☐ Yes ☐ No

**8. Have you ever been denied a license or similar privilege by a licensing agency, or been denied the opportunity to take a licensing examination?**

☐ Yes ☐ No

**9. Have you, at any time, practiced on a forfeited, expired, cancelled or inactive license? If yes, indicate the dates of practice in your explanation.**

☐ Yes (Explanation is attached) ☐ No

**10. Check at least one of the following conditions that qualify you to restore your license to active status and provide all supporting documentation:**

☐ I have completed the board's continuing education requirements that were in effect for each year that my license was expired or cancelled. Please attach copy(ies) of proof of completion of Board approved continuing education.

☐ I practiced in another state under an active valid license and completed all the continuing education requirements for that state for each twelve (12) month period or portion thereof the license was expired.

☐ I have passed the National Board of Chiropractic Examiners, Special Purposes Examination for Chiropractors within six (6) months prior to submitting the license restoration application.

I certify under penalty of perjury under the laws of the State of California, that all information provided in connection with this application for restoration is true, correct and complete. Providing false information or omitting required information may constitute grounds for disciplinary action against the license.

_____ _____

Signature Print Name

_____

Date

(Rev. 02/10)

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# INACTIVE TO ACTIVE STATUS APPLICATION

In order to practice chiropractic in California, the law requires that you have a current valid license issued by the Board. **Please attach a copy of proof of completion of continuing education equivalent to that required for a single license renewal period.** ~~If you have an ***inactive*** license and you want to return it to ***active*** status, there are three options available:~~

~~**1. Check at least one of the following conditions that qualify you to restore your license to active status and provide all supporting documentation:**~~

~~☐ I have completed the board's continuing education requirements that were in effect for each year that my license was inactive. Please attach copy(ies) of proof of completion of Board approved continuing education.~~

~~☐ I practiced in another state under an active valid license and completed all the continuing education requirements for that state for each twelve (12) month period or portion thereof the license was expired.~~

~~☐ I have passed the National Board of Chiropractic Examiners, Special Purposes Examination for Chiropractors within six (6) months prior to submitting the restoration* application.~~

**ALL** questions on this application must be answered. Please submit the completed application~~,~~ and supporting documentation ~~and check or money order in the amount of $35.00 for the application fee~~. When space provided is insufficient, attach additional sheets of paper. All attachments are considered part of the application. The Board will not process incomplete applications ~~nor applications that do not include the correct application fee~~.

**2. Please print or type:**

| Name: | | License No.: | Expiration Date: |
|---|---|---|---|
| Current Practice Address: | City/State | Zip Code | Business Phone: ( ) |

**3. Have you ever been convicted of or pled guilty or no contest to any violation of a local, state, or federal law of any state, territory, country or U.S. federal jurisdiction? If yes, include an explanation and documentation of your criminal court documents (i.e. complaint, minute order, indictment, plea agreement, etc.)** Traffic infractions that resulted in fines of less than five hundred dollars ($500) that did not involve alcohol, dangerous drugs, or controlled substances need not be disclosed (CCR § 371(i)).

☐ Yes (Documentation is attached) ☐ No

**4. Have you ever had disciplinary proceedings against any professional license including revocation, suspension, probation, voluntary surrender, or any other proceeding in this state or any other state?**

☐ Yes (Explanation is attached) ☐ No

I certify under penalty of perjury under the laws of the State of California, that all information provided in connection with this application for inactive to active status is true, correct and complete. Providing false information or omitting required information may constitute grounds for disciplinary action against the license.

**Signature** **Print Name**

**Date**

~~* Application for Restoration of License is not required if your license has not been cancelled.~~

~~OFFICE USE ONLY~~

~~Receipt No.~~ ~~Date cashiered~~

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## Review of Written Comments Received During the 45 Day Comment Period
## Fingerprint Submission Proposed Regulations

### Background:

At a public meeting on January 8, 2009, the Board approved the text of the proposed regulations for Fingerprint Submission of chiropractic applicants and licensees. Board staff filed the proposed rulemaking package with the Office of Administrative Law (OAL) on April 19, 2010. A public hearing was not scheduled, nor was one requested. A summary of the oral and written comments received during the 45-day comment period are presented below.

### Action Requested:

Staff requests the Board to review and consider the public comments received during the 45-day public comment period to determine whether modifications to the proposed language are necessary or the rulemaking package is ready to be filed with OAL.

### Written Comments

**Comment 1:** Gerard Clum, D.C., President of Life Chiropractic College West (LCCW) provided the following comments:
**1)** Section 321.1, subsections (a), (b), and (d): A licensee or applicant cannot "successfully complete" a criminal records search. A licensee can only have his/her fingerprints, personal information and processing fees transmitted to the DOJ. It is the DOJ and FBI that "successfully complete" criminal record searches and thereafter transmit findings to the chiropractic board.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Fingerprint submissions can be rejected by the DOJ and FBI for various reasons, in which case, an applicant or licensee would be required to resubmit their fingerprints in order to "successfully complete" the criminal record search.

**2)** Section 321.1(b): The board may want to specify that the applicant/petitioner bears the costs of conducting the DOJ and FBI database searches, not just the "cost of the fingerprinting."

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. The cost of fingerprinting includes more than the actual electronic search by the DOJ and FBI. The government agencies that provide LiveScan services each charge a "rolling fee." This fee varies from agency to agency. Consequently, the language "bears the cost of conducting the DOJ and FBI

database search" would not cover all of the costs a licensee will incur in order to successfully complete a criminal record search.

**3)** Section 321.1(c) – There is no cited authority or a showing of necessity for the chiropractic board to have its licensees submit "electronic fingerprints". At minimum, the persons affected by the regulation should be informed *why* their fingerprint images submitted in 1996 are not good enough in 2010.

**Staff Suggested Response:** The board rejects this comment. Until the LiveScan technically became widely used throughout the State of California, fingerprints were submitted on cards. When a licensee is arrested or convicted of a crime, either a law enforcement agency or the courts notify DOJ by electronic means of the event. If a licensee's fingerprints have never been submitted through the LiveScan process, DOJ has to wait for a preliminary match, then pull the hardcopy of the fingerprints and scan those into the LiveScan system. This not only delays the board from being notified about an arrest or conviction, but the prints may not be of acceptable quality. Therefore, in response to the comment as to why images submitted in 1996 are not "good enough in 2010" it may be because the applicants submitted hardcopies. It was not a requirement that all applicants submit hardcopies until recently. In fact, DOJ allows exemptions for those who do not have access to LiveScan sites including those who live out of state or of the country. The Board wants to ensure that all of its licensees's fingerprints are in electronic format in the LiveScan sytem the board will run its licensee database against the DOJ's electronic system. This will reveal to the Board which licensee's are not in the system.

**4)** Section 321(c) - The regulation states that licensees must comply with the new fingerprinting requirement "by the date designated by the board". The nebulous date in the current language could be 30 days or 3 years from the filing of the regulation with the secretary of state. Other health care boards addressing the fingerprinting issue have set the date of license renewal as the deadline for submitting fingerprints to the DOJ.

**Staff Suggested Response:** Staff agrees and recommends the board determine when the start date for compliance should be established

**5)** Section 321(c) - A licensee cannot independently determine whether the DOJ has maintained a record of his/her fingerprint. The *board* can obtain that information from the DOJ. The regulation, however, does not direct board staff to provide notice to those licensees who must be fingerprinted anew. It is important that licensees be informed *if* and *when* they must comply with this new fingerprinting requirement.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. This section does address notification from the board regarding fingerprinting. This section states, in part, "or who are directed by the board shall…".

**6)** Section 321(d) – Other health care boards have provisions which allow an exemption for licensees renewing on inactive status or actively serving in the military outside the country. If the licensee is not practicing in California, it moot to check for criminal activity.

**Staff Suggested Response:** Staff disagrees and recommends the board reject this comment. Licensees whose licenses are on inactive status are still licensees. If they commit a crime substantially related to the scope of chiropractic, the board should be notified of such circumstances because the licensee could immediately apply to have his or her license activated before the Board

is aware of the arrest or conviction. The proposed regulations contain an exemption for licensees who are actively serving in the military under CCR § 321.1(e).

**7)** Fiscal Impact (Notice) – In its Notice of this regulatory action, the board makes the assumption that 8,500 previously licensed individuals will need Live Scan fingerprinting. Yet it asserts there will be no fiscal impact on public agencies. Surely the large quantity of data flowing from the DOJ to the board will create more work in each agency. Board staff will be repeating nearly 50 years' work as it again reviews the criminal history of chiropractors licensed between 1947 and 1997. An unknown number of disciplinary actions could arise and result in higher enforcement costs for service by the Office of the Attorney General and Office of Administrative Hearings.

**Staff Suggested Response:** Staff disagrees with the comment regarding workload and recommends the board reject this comment. The amount of licensees identified in the Notice is not a substantial amount of workload as approximately 750 Livescan facilities are located throughout CA. This number is a minute percentage of all individuals processed by DOJ. The fiscal impact on public agencies is not referring to the board. The fiscal impact to the board was addressed separately in the Fiscal Impact Statement. The board will not be reviewing criminal history for all chiropractors licensed between 1947 and 1997, as most chiropractors won't have a criminal history. The board will only review criminal histories for licensees of whom we receive a notification of a criminal history from the DOJ. For the vast majority of licensees, the board already knows about the criminal history as licensees are required to disclose convictions to the board on license renewals. Staff agrees the proposed regulation may result in disciplinary action for some licensees; however, the board does not expect a large number of disciplinary actions. Staff recommends the board reject this comment as the board anticipates the ability to absorb any additional enforcement costs. Furthermore, the board believes the safety of California consumers outweighs any potential additional costs to the board.

DRAFT

**Board of Chiropractic Examiners**
**Proposed Regulations**
**Title 16, Division 4, California Code of Regulations**

Add Section 321.1 to the California Code of Regulations.

(a) Applicants for licensure and petitioners for reinstatement of a revoked or cancelled license shall successfully complete a state and federal level criminal offender record information search conducted through the Department of Justice as provided in subdivision (b).

(b) Applicants and petitioners shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a state or federal criminal record. The Department of Justice shall forward the fingerprint images and related information received to the Federal Bureau of Investigation and request federal criminal history information. The Department of Justice shall compile and disseminate state and federal responses to the board pursuant to subdivision (p) of Section 11105 of the Penal Code. The board shall request from the Department of Justice subsequent arrest notification service, pursuant to Section 11105.2 of the Penal Code, for each person who submitted information pursuant to this subdivision. The applicant or petitioner shall bear the cost of the fingerprinting.

(c) Licensees who have either not previously submitted fingerprints to the board, or for whom a record of an electronic submission of fingerprints no longer exists, or who are directed by the board shall successfully complete a state and federal level criminal offender record information search conducted through the Department of Justice as provided in subdivision (b). A licensee's failure to comply with this requirement by the date designated by the board is unprofessional conduct and may result in the board taking disciplinary action against his or her license.

(d) (1) In order to renew a license licensees subject to subdivision (c) shall, in addition to meeting any other requirements for renewal of a license, certify on the renewal application that the licensee has successfully completed a state and federal level criminal offender record information search pursuant to subdivision (c).

(2) Licensees shall retain, for at least three years, either a receipt showing that he or she has electronically transmitted his or her fingerprint images to the Department of Justice or, for those licentiates who did not use an electronic fingerprinting system, a receipt evidencing that the licentiate's fingerprints were taken.

(e) The board may waive the requirements of subdivision (c) and (d) for licensees who are actively serving in the military.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii), and Penal Code Sections 11105 and 11105.2.

# Title 16, Division 4. BOARD OF CHIROPRACTIC EXAMINERS

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (hereafter "board") pursuant to Section 11340.7 of the Government Code is scheduling the following public hearing in order to review and take action on a Petition filed pursuant to Section 11340.6 of the Government Code regarding Section 355.2 of the California Code of Regulations regarding the required number of continuing education units to reactivate an inactive license. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at the hearing to be held:

State Capitol
Fourth Floor, Assembly Room 444
Sacramento, CA 95814

July 29, 2010
9:30a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received in the board's office no later than 5:00 p.m. on July 29, 2010, or must be received by the board at the hearing.

Materials regarding this Notice and the Petition filed pursuant to Section 11340.6 of the Government Code may be found at www.chiro.ca.gov.

Contact Person:

| | |
|---|---|
| Name: | Robert Puleo, Interim Executive Officer |
| Address: | 2525 Natomas Park Drive, Suite 260<br>Sacramento, California 95833 |
| Telephone: | (916) 263-5355 |
| Fax: | (916) 263-5369 |
| E-Mail: | chiro.info@chiro.ca.gov |

Back-up Contact Person:

| | |
|---|---|
| Name: | Linda Shaw, Manager |
| Address: | 2525 Natomas Park Drive, Suite 260<br>Sacramento, California 95833 |
| Telephone: | (916) 263-5355 |
| Fax: | (916) 263-5369 |
| E-Mail: | chiro.info@chiro.ca.gov |

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3527 MT. DIABLO BLVD.#147
LAFAYETTE, CA 94549
(510) 965-2337

BOARD OF
CHIROPRACTIC EXAMINERS

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS

| | |
|---|---|
| MARLENE I. EHLERS,<br><br>Petitioner. | (1) PETITION TO AMEND OR REPEAL REGULATION<br>and<br>(2) REQUEST FOR RELIEF FROM REGULATION REQUIREMENT<br><br>(Government Code §§ 11340.6 and 11340.7) |

Petitioner Marlene I. Ehlers respectfully petitions the California Board of Chiropractic Examiners as follows:

I. To amend or repeal California Code of Regulations, Title 16, Division 4, § 355.2, subsections (a) and (b) as they are inconsistent with Business and Professions Code § 704; and

II. To grant her immediate relief from the requirements of California Code of Regulations § 355.2(a), and restore her inactive chiropractic license to active status upon payment of the $150 renewal fee and completion of "continuing education equivalent to that required for a single license renewal period" as required by the governing statute, Business and Professions Code § 704(b).

This petition is submitted pursuant to Government Code §§ 11340.6 and 311340.7 which provide as follows:

> Government Code § 11340.6.
> Except where the right to petition for adoption of a regulation is restricted by statute to a designated group or where the form of procedure for such a petition

is otherwise prescribed by statute, any interested person may petition a state agency requesting the adoption, amendment, or repeal of a regulation as provided in Article 5 (commencing with Section 11346). This petition shall state the following clearly and concisely:

(a) The substance or nature of the regulation, amendment, or repeal requested.

(b) The reason for the request.

(c) Reference to the authority of the state agency to take the action requested.

Government Code § 11340.7.

(a) Upon receipt of a petition requesting the adoption, amendment, or repeal of a regulation pursuant to Article 5 (commencing with Section 11346), a state agency shall notify the petitioner in writing of the receipt and shall within 30 days deny the petition indicating why the agency has reached its decision on the merits of the petition in writing or schedule the matter for public hearing in accordance with the notice and hearing requirements of that article.

(b) A state agency may grant or deny the petition in part, and may grant any other relief or take any other action as it may determine to be warranted by the petition and shall notify the petitioner in writing of this action.

## I. BACKGROUND

Petitioner Marlene I. Ehlers ("Ehlers") is a chiropractor licensed in 1985 by the State of California Board of Chiropractic Examiners ("CBCE"). In 1996 Ehlers changed her license status to "inactive" and for the past 14 years has renewed it as such. In March 2010, Ehlers contacted the CBCE and was informed that she must complete 12 hours of continuing education for each of the 14 years she was not practicing (a total of 168 hours).

When Ehlers placed her license on inactive status, the law did not require any continuing education to return the license to active status. In 2001, the board adopted a regulation (§ 355.2) that required completion of continuing education for *every year the license was inactive*. In 2004, the Legislature enacted a statute that changed the chiropractors' reactivation requirement to "continuing education equivalent to that required for a single license renewal period."

The CBCE has not changed its regulation to mirror the continuing education requirements the Legislature has deemed adequate for all healing arts licensees. Unless Ehlers is granted relief under this Petition, she and others similarly situated will be required to spend unnecessary time and money to meet the requirements of an unenforceable regulation that is inconsistent with current statute.

## II. PETITION TO AMEND OR REPEAL REGULATION

### A. Substance or Nature of the Regulation, Amendment or Repeal Requested.

Ehlers requests that the CBCE amend and repeal California Code of Regulations of Regulations, Title 16, Division 4, § 355.2 as follows:

§ 355.2. Inactive License.

A licensed chiropractor may apply to the board to request that his or her license be placed on inactive status. An inactive license shall be renewed during the same time period at which an active license is renewed. The renewal fee for a license in an inactive status shall be the same fee assessed for renewal of an active license. Licensees holding an inactive license shall be exempt from continuing education requirements.

The holder of an inactive license shall not engage in the practice of chiropractic during the time the license is inactive.

Licensees on inactive status who have not committed any acts or crimes constituting grounds for discipline may submit a written request for an active license. ~~and the following:~~

~~(a) Evidence of board-approved continuing education for each 12-month period or portion thereof the license was inactive. The continuing education must be taken prior to the request for activation and shall comply with California Code of Regulations section 356; or~~

~~(b) If practicing in another state, provide proof of licensure and continuing education from that state for each 12-month period the license was inactive in California.~~

## B. Reason for Amendment/Repeal Request

California Code of Regulations § 355.2 is not consistent with Business and Professions Code § 704. Government Code § 11349 defines 'consistency' as: "being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law."

In 2001, the CBCE adopted California Code of Regulations of Regulations, Title 16, Division 4, § 355.2. That regulation dictates the terms under which an inactive license may be restored to active status.

> § 355.2. Inactive License.
>
> A licensed chiropractor may apply to the board to request that his or her license be placed on inactive status. An inactive license shall be renewed during the same time period at which an active license is renewed. The renewal fee for a license in an inactive status shall be the same fee assessed for renewal of an active license. Licensees holding an inactive license shall be exempt from continuing education requirements.
>
> The holder of an inactive license shall not engage in the practice of chiropractic during the time the license is inactive.
>
> Licensees on inactive status who have not committed any acts or crimes constituting grounds for discipline may submit a written request for an active license. and the following:
>
> (a) Evidence of board-approved continuing education for each 12-month period or portion thereof the license was inactive. The continuing education must be taken prior to the request for activation and shall comply with California Code of Regulations section 356; or
>
> (b) If practicing in another state, provide proof of licensure and continuing education from that state for each 12-month period the license was inactive in California.

In 2004, the Legislature passed Senate Bill 1913 with the intent to "make certain provisions of the Business and Professions Code that are applicable to licensees who are licensed by various boards in the Department of Consumer Affairs, applicable to chiropractors" (SB 1913, 2004). That bill added § 1005 to Business and Professions Code as follows:

Business and Professions Code § 1005

The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35, 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141, 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, 490.5, 491, 494, 495, 496, 498, 499, 510, 511, 512, **701, 702, 703, 704**, 710, 716, 730.5, 731, and 851 are applicable to persons licensed by the State Board of Chiropractic Examiners under the Chiropractic Act. (Emphasis added.)
[Filed with Secretary of State September 22, 2004.]

Business and Profession Code § 704, only requires healing arts licensees (including chiropractors) to complete continuing education equivalent to that required for a ***single license renewal period:***

Business and Profession Code § 704

In order for the holder of an inactive license or certificate issued pursuant to this article to restore his or her license or certificate to an active status, the holder of an inactive license or certificate shall comply with all the following:

(a) Pay the renewal fee; provided, that the renewal fee shall be waived for a physician and surgeon who certifies to the Medical Board of California that license restoration is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation which provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

(b) If the board requires completion of continuing education for renewers of an active license or certificate, complete continuing education equivalent to that required for a single license renewal period.

After the enactment of Business and Professions Code § 1005 (which subjects chiropractors to the provisions of Business and Profession Code § 704), the CBCE should have exercised due diligence and instituted rulemaking proceedings to amend/repeal CCR § 355.2 as the regulation was no longer consistent with existing statutes. Instead, for the past five years, the CBCE has kept the regulation on the books and continues to enforce its harsh provisions.

## C. Authority of the California Board of Chiropractic Examiners to Take Requested Action

Pursuant to § 4 of the Chiropractic Initiative Act [B&P § 1000-4(b)], the CBCE is given the power to adopt rules and regulations necessary for the performance of its work.

> Chiropractic Initiative Act § 4.
>
> The board shall have power:
>
> (b) To adopt from time to time such rules and regulations as the board may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public. Such rules and regulations shall be adopted, amended, repealed and established in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature.

Ehlers respectfully requests that, within the thirty days specified by Government Code § 11340.7, the CBCE schedule a public hearing for repeal of California Code of Regulations, Title 16, Division 4, § 355.2, subsections (a) and (b).

## II. REQUEST FOR RELIEF FROM REGULATION REQUIREMENTS

Ehlers hereby petitions the CBCE to grant her immediate relief from the provisions of California Code of Regulations § 355.2 and restore her license upon payment of the annual renewal fee and completion of 12 hours continuing education as specified by the governing statute, Business and Professions Code § 704. Ehlers requests this alternate relief pursuant to Government Code § 11340.7(b) which allows the CBCE to "grant any other relief or take any other action as it may determine to be warranted by the petition".

Ehlers cannot expect expedient relief through the amendment or repeal process. The last regulation repealed by the CBCE was in 2007 (§ 356.1 Cardiopulmonary Resuscitation/Basic Life

Support Training). That action commenced on December 14, 2006 when the CBCE voted to commence the repeal process, notice of the action was published December 29, 2006, the repeal was filed in April 2007 and became effective May 9, 2007. It was nearly 5 months from the time the CBCE made its decision to repeal a regulation to the effective date of the repeal.

Ehlers expects that instead of instituting a regulatory action to repeal § 355.2, the CBCE will just roll this request into its omnibus re-write of Article 6 (which includes § 355.2). The CBCE commenced its most current re-write attempt in late 2007. In May 2009, the CBCE published a notice of proposed regulatory action, received comments on three iterations of the proposed regulations, before ultimately deciding at its March 18, 2010 meeting to abort the process and start anew.

On April 9, 2010, notice of the CBCE's latest proposed regulatory action was published in the California Regulatory Notice Register. The first comment period on the proposed language will close on May 24, 2010. Unfortunately, the amended language of § 355.2 (incorporated into a new § 371) remains inconsistent with Business and Professions Code § 704. Further, the proposed language is riddled with ambiguities and uncertainty and will require extensive revisions before it can meet the clarity standards of the Office of Administrative Law. The current proposed regulation addressing inactive licenses provides as follows:

> §371. Annual License Renewals and Restoration.
>
> (a) This section shall apply to non-disciplinary license renewal and restoration. Disciplinary license renewal conditions are defined in Article 10 of the Initiative Act.
>
> A license shall expire annually on the last day of the licensee's birth month.
>
> (1) A "license in forfeiture" is a license that has not been renewed within 60 days of its expiration date.
>
> (2) "Inactive license" has the meaning specified in Business and Professions Code 700
>
> (3) "Cancelled license" is a license that has been expired for a period of three (3) consecutive years.

To renew a license or inactive license, or restore a license in forfeiture, or cancelled license, a licensee shall complete and submit either a "Renewal Form" (R1HDC), an "Inactive to Active Status Application" (Revision date 02/10), an "Application for Restoration of License" (Revision date 02/10), or a "Forfeiture Form" (D1HDC), which is incorporated by reference, and pay the appropriate fee per Section 370. To renew a license or inactive license, the renewal and restoration application and fee shall be submitted to the board prior to the expiration date of the license. The board will not process incomplete applications nor complete applications that do not include the correct fee as provided by section 370.

In addition to any other requirement for renewal or restoration of a license, a licensee shall disclose whether, since the last renewal of his or her license, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country. However, licensees are not required to disclose traffic infractions that resulted in fines of less than five hundred dollars ($500) that did not involve alcohol, dangerous drugs, or controlled substances.

(b) In addition to (a), an applicant shall have met one of the following:

(1) Completed the board's continuing education requirements that were in effect at the time for each year the license was expired;

(2) Practiced in another state under an active valid license and completed all continuing education requirements for that state for each twelve (12) month period or portion thereof the license was expired;

(3) Passed the National Board of Chiropractic Examiners (NBCE) Special Purposes Examination for Chiropractic examination within six (6) months prior to submitting the license restoration application.

As currently written, it is unclear whether subsection (b) of § 371 is meant to apply to a chiropractor seeking to change his/her inactive license to active status. However, upon reviewing the "Inactive to Active Status Application" form referenced in this section, one discovers that indeed the CBCE expects the holder of an inactive license to meet one of the three conditions of subsection (b). In order to satisfy the "consistency" requirement of Government Code § 11349, both the proposed regulation and the referenced form must be revised to be consistent with Business and Professions Code § 704. As these revisions cannot be deemed "nonsubstantial changes" (CCR Title 1, § 40), the regulation and form must be submitted to the public for yet another comment period.

While the CBCE makes its fitful way through the process of revising its continuing education regulations, Ehlers and other licensees similarly situated are required to comply with a regulation which is clearly inconsistent with Business and Professions Code § 704. Delay by the CBCE to make its regulations consistent with the statutes should not delay Ehlers' return to practice.

Ehlers respectfully requests that the CBCE waive the requirements of California Code of Regulations §355.2(a) and restore her inactive chiropractic license to active status upon payment of the $150 renewal fee and completion of "continuing education equivalent to that required for a single license renewal period" as required by the governing statute, Business and Professions Code § 704(b).

DATED: April 30, 2010

Respectfully submitted,

By_____
Attorney for Petitioner

Original petition to:

Board of Chiropractic Examiners
2525 Natomas Park Dr Ste 260
Sacramento, CA 95833

Copies to:

LaVonne M. Powell
Department of Consumer Affairs
Legal Division
1625 N Market Blvd Ste S309
Sacramento, CA 95834

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

**PROOF OF SERVICE BY MAIL**
**C.C.P. 1013a**

I declare that I am a resident of or employed in the County of Contra Costa, California. I am over the age of 18 years and not a party to the within entitled cause. The name and address of my residence or business is 244 Civic Center Street, Richmond, CA 94804.

I am readily familiar with the ordinary practice of the business of collecting, processing and depositing correspondence in the United States Postal Service and that the correspondence will be deposited the same day with postage thereon fully prepaid.

On May 7, 2010, I served the Board of Chiropractic Examiners, LaVonne M. Powell and Office of Administrative Law.

on the parties listed below by placing a true copy thereof enclosed in a sealed envelope for collection and mailing in the United States Postal Service following ordinary business practices at Richmond, California addressed as follows:

Board of Chiropractic Examiners
2525 Natomas Park Dr., Suite 260
Sacramento, CA 95833

LaVonne M. Powell
Department of Consumer Affairs
Legal Division
1625 N. Market Blvd., Suite S309
Sacramento, CA 95834

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on May 7, 2010, at Richmond, California.

Isabel A. Ozuna
(Type or print name)

(Signature)

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Gover

**Board of Chiropractic Examiners**
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
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CA Relay Service TT/TDD (800) 735-2929
Consumer Complaint Hotline (866) 543-1311
www.chiro.ca.gov

Hearings Re: Petition for Early Termination of Probation

A. Anthony Loc Bao Nguyen

Hearings Re: Petition for Reinstatement of Revoked License

A. Carlos Seals

B. Leon Weathersby