STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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

NOTICE OF PUBLIC MEETING

September 23, 2010
10:00 a.m.
State Capitol
Assembly Room 126
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**
   July 29, 2010 Board Meeting

4. **Public Comment**

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

6. **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. **Board Web Site Redesign**
    Guest Speaker – Theresa Rapozo, Office of Technology Services, Web Consulting Unit

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

13. Proposed Regulations
- A. Continuing Education
- B. Fingerprint Submissions
- C. Draft Language for Proposed Regulations Based on Provisions of SB 1111
- D. Draft Language for Informed Consent

14. Department of Industrial Relations, Division of Workers Compensation - Recognition of Chiropractic Specialties

15. Public Comment

16. Future Agenda Items

17. Hearings Re: Petition for Reinstatement of Revoked License
- A. Joseph Scannell

18. Hearings Re: Petition for Early Termination of Probation
- A. Richard Monoson
- B. Ramon Mendoza

19. 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) Board of Chiropractic Examiners v. Carole M. Arbuckle
     Sacramento County Superior Court, Case No 03AS00948
- B. Deliberation on Petitioner Hearings and Disciplinary Decisions
  Pursuant to California Government Code Section 11126(c)(3)

20. OPEN SESSION: Announcements Regarding Closed Session

21. Adjournment

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.

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BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES
July 29, 2010
State Capitol
Fourth Floor, Assembly Room 444
Sacramento, CA 95814

DRAFT

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

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
Lavella Matthews, Associate Governmental Program Analyst
Christina Villanueva, Associate Governmental Program Analyst
Valerie James, Office Technician

Call to Order
Dr. Lerner called the meeting to order at 10:01 a.m.

Roll Call
Dr. Columbu called the roll. All members were present except Hugh Lubkin, D.C., who arrived shortly after roll call.

Chair's Report
Dr. Lerner gave the Chair's Report.

Approval of Minutes
May 13, 2010 Board Meeting

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

Discussion
Dr. Steinhardt provided a correction on page 2, under public comment; "spinal decompressing" should be corrected to read "spinal decompression".

Public Comment
None

Board Member training on the Bagley-Keene Open Meetings Act and other relevant laws
Ms. Powell stated there is nothing new to be brought up.

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 OMIT THE BOARD'S LOGO ON THE NEW PARCHMENTS
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Ratification of Approved License Applications

MOTION: DR. LUBKIN MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS
SECOND: DR. TYLER SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED
The Board ratified the attached list of approved license applications incorporated herein (Attachment A).

Discussion
None

Ratification of Approved Continuing Education Providers

MOTION: DR. STEINHARDT MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDERS
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 5-0
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

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

Enforcement Case Tracking
Mr. Puleo introduced guest speaker, Paul Riches, Enforcement Chief from the Department of Consumer Affairs. Mr. Riches discussed the "Breeze Project" which is the department's pending tracking system for enforcement.

Public Relations Committee Meeting Update
Dr. Lerner provided an update from the last meeting.

There was discussion on having Office of Technology Services (OTS) at the next Public Relations Committee meeting to discuss changes/updates to the Board's website.

Legislation/Regulation Committee Meeting Update
Dr. Lerner provided an update from the last meeting.

Staff will develop regulatory language to present at the next meeting to clarify Section 308; the display of license and the purposes of different types of licenses such as pocket license and satellite certificates.

The Board members discussed informed consent regarding potential risk of care. Dr. Lerner proposed that we start initiating regulatory language to require licensees to provide written informed consent to their patients.

MOTION: DR. LUBKIN MOVED TO BEGIN TO PREPARE LANGUAGE TO DEVELOP INFORMED CONSENT CONCEPTS
SECOND: DR. TYLER SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Public Comment
Dr. Charles Davis provided public comment that health and safety codes state the risk needs to be significant to require informed consent and feels it would be over regulating at this point.

Enforcement Committee Meeting Update
Dr. Lubkin provided an update from the last meeting.

Legislative Update
A. AB1996 (Hill)
Mr. Puleo provided an update stating the language is now pending votes from senate and assembly before it can move on to the Governor, there are no anticipated problems.

B. Any other legislation of Interest to the Board
Mr. Puleo stated there is no other significant pending legislation at this time.

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Proposed Regulations

A. Continuing Education

Dr. Lerner provided an update and stated the Board looks forward to hearing new information; however, they will not be rehashing old discussion.

MOTION: DR. LERNER MOVED TO APPROVE STAFF SUGGESTIONS TO MODIFY THE CE LANGUAGE
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Public Comment

Dr. Charles Davis complemented the Board and suggested an addition to page 4, Section 16.

Dr. Lerner, Ms. Powell, Dr. Lubkin, and Mr. Puleo discussed Dr. Davis' suggestion.

Carl Brakensiek commented on the drafting of page 1 and page 4 of the language.

Ms. Powell suggested amending page 1 and removing "board approved" from Section 361.

Bill Howe commended the Board and staff on their work and provided several recommended changes.

Board members, Ms. Powell and Mr. Puleo discussed and considered the recommended changes.

Kendra Holloway provided comment to clarify course hours.

Deborah Mattos asked for clarification on page 10 under 364, regarding 8 credit hours.

Dr. Lerner provided clarification.

Dr. McAllister asked for clarification on the expectation of what licensees need to provide under the new regulations because distance learning may provide a different way of documenting courses.

MOTION: DR. LERNER MOVED AMEND 361(f) TO INDICATE THE NON-MANDATORY COURSES ARE NOT RESTRICTED TO THE SUBJECT AREAS 1-16 IN THIS SECTION
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

B. Fingerprint Submissions

Ms. Powell stated the most significant recommendation is that we need to include an effective date.

MOTION: DR. LERNER MOVED TO START SIX MONTHS FROM THE EFFECTIVE DATE OF THE REGULATION
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

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Discussion
None

Public Comment
None

MOTION: DR. LERNER MOVED ACCEPT ALL OF STAFF'S RECOMMENDATIONS
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion
None

Public Comment
None

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 and Inactive License
Ms. Powell provided an update stating the hearing was noticed for 9:30 this morning; however nobody appeared to testify on the issue. The Board has granted this petition, in part, by amending the CE regulations. However, the Board is not able to grant immediate relief to the petitioner. The existing requirement will remain in effect until the proposed amendments are adopted by the Office of Administrative Law.

MOTION: DR. LUBKIN MOVED TO FORMALLY GRANT THE PETITION BY WAY OF ONLY REQUIRING CE FOR ONE RENEWAL CYCLE ONCE THE AMENDED CE REGULATIONS ARE FINALIZED AND ARE IN EFFECT
SECOND: DR. TYLER SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Public Comment
Debra Snow commented on the Enforcement Committee Meeting regarding consumer oversight.

Future Agenda Items
None

Hearings re: Petition for Early Termination of Probation
Administrative Law Judge Deidre Johnson presided over and Deputy Attorney General Tom Rinaldi and Deputy Attorney General Jeff Phillips appeared on behalf of the people of the State of California on the following hearing.

- Anthony Loc Bao Nguyen

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Hearings re: Petition for Reinstatement of Revoked License
Administrative Law Judge Deidre Johnson presided over and Deputy Attorney General Tom Rinaldi and Deputy Attorney General Jeff Phillips appeared on behalf of the people of the State of California on the following hearings.

- Carlos Seals
- Leon Weathersby

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 5:16 p.m.

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Attachment A

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**

DRAFT

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**

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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**

Attachment B

Ratification of Formerly Approved Continuing Education Providers

Name (First, Middle, Last)	Date Approved
▪ **Jose L. Serrano, D.C.**	**05/25/2010**
▪ **William Ruch, D.C.**	**6/09/2010**

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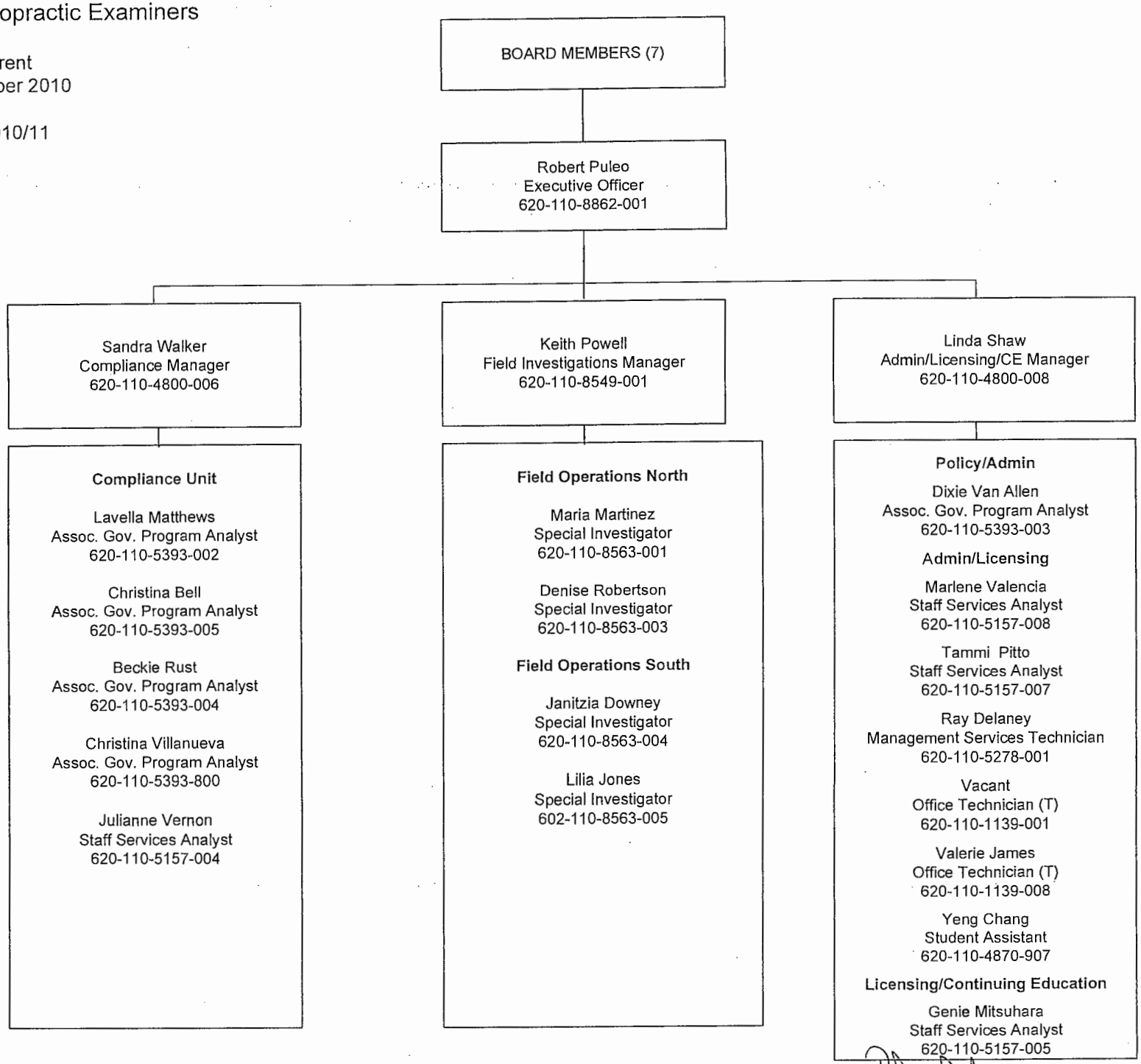
State Board of Chiropractic Examiners

Current
September 2010

FY 2010/11



Executive Officer _____

Rev. 9/2/2010

Recruitment and Selection of Vacant Positions
September 1, 2010

Classification	Date Advertised	Application Review	Interviews Conducted	Background Checks	Formal Offer	Start Date
Management Services Technician (Administrative Unit)	08/09/10	Completed	Completed	Yes	Yes	09/01/10
Office 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 9/1/2009	TOTAL LICENSES 9/1/2010	NET VARIANCE
CHIROPRACTOR	13,829	13,927	+98
SATELLITES	2,938	3,521	+749
CORPORATIONS	1,338	1,319	-19
REFERRALS	33	33	0
TOTALS	18,138	18,800	+662

APPLICATIONS RECEIVED AND PROCESSED
JULY 1, 2010 – AUGUST 30, 2010

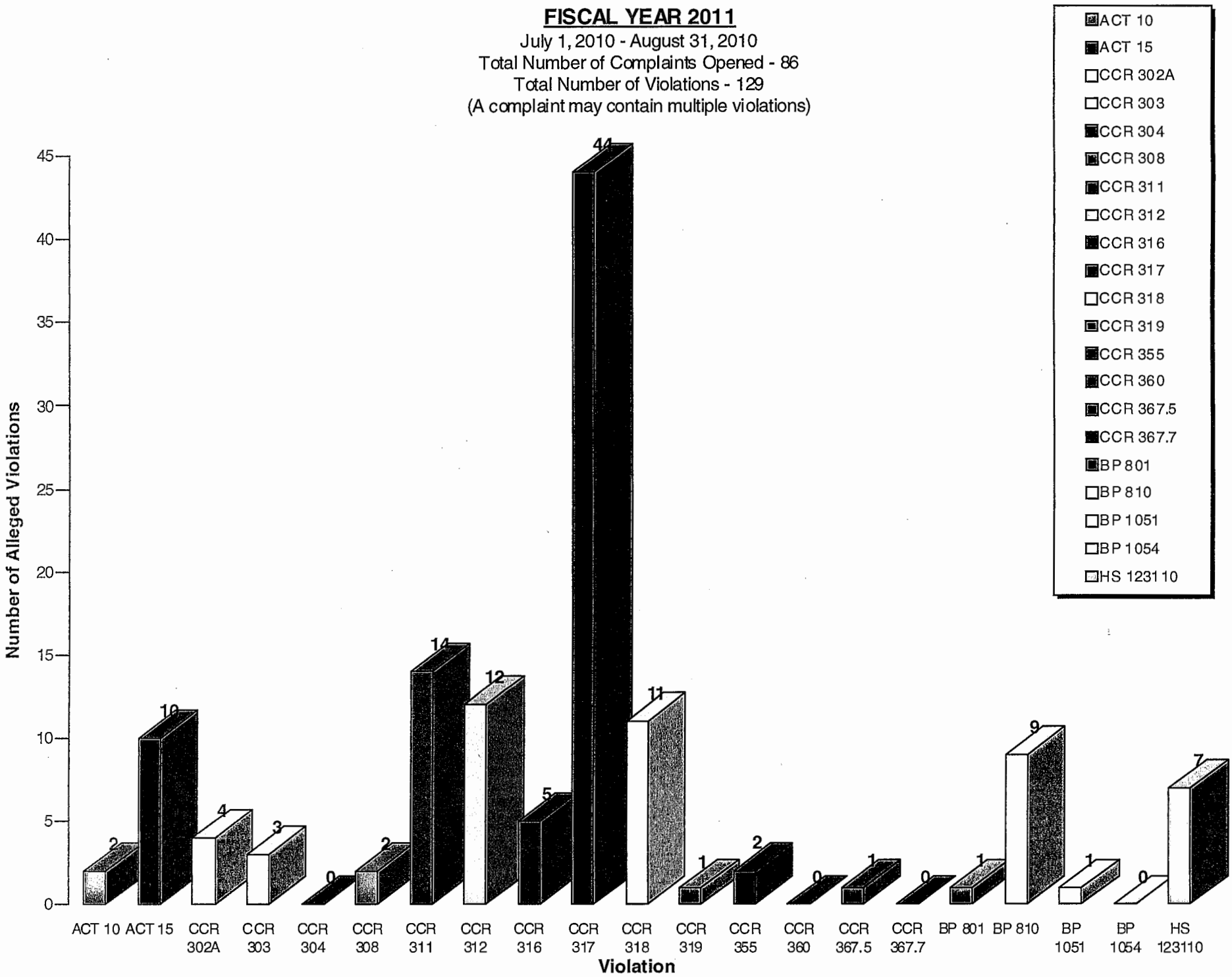
APPLICATION TYPE	RECEIVED	APPROVED	DENIED	WITHDRAWN	PENDING
INITIAL	58	53	0	0	130
RECIPROCAL	4	2	0	0	14
RESTORATION	36	32	0	0	14
CORPORATION	16	16	0	0	19

Compliance Unit Statistics

Fiscal Year	06/07	07/08	08/09	09/10	10/11*
Complaints					
Received	702	644	655	519	86
Pending	863	824	410	203	218
Closed with Insufficient Evidence	132	107	206	136	10
Closed with No Violation	61	78	223	129	17
Closed with Merit	202	321	275	158	15
Letter of Admonishment	n/a	n/a	n/a	5	0
Citations and Fines Issued (Total Fine Amount)	34	28	41($19,200)	78($25,700)	10 ($9,550)
Accusations					
Filed	41	13	64	73	14
Pending	92	73	105	117	114
Revoked	27	8	10	18	0
Revocation Stayed: Probation	23	10	4	20	4
Revocation Stayed: Suspension and Probation	15	10	7	8	0
Suspension	1	0	0	0	0
Suspension Stayed: Probation	0	0	0	1	0
Suspension and Probation	0	0	2	0	0
Voluntary Surrender of License	4	2	2	7	1
Dismissed/Withdrawn	3	3	5	18	0
Statement of Issues					
Filed	11	7	3	3	1
Denied	1	0	1	0	0
Probationary License	9	7	4	7	0
Withdrawn at Applicant's Request	2	1	0	0	0
Granted	3	0	0	0	0
Petition for Reconsideration					
Filed	1	0	1	3	0
Granted	0	0	0	0	0
Denied	1	0	1	2	0
Petition for Reinstatement of License					
Filed	10	15	13	9	0
Granted	5	12	4	4	0
Denied	4	6	11	11	1
Petition for Early Termination of Probation					
Filed	5	6	6	6	1
Granted	4	1	6	1	0
Denied	0	1	2	2	0
Petition for Modification of Probation					
Filed	0	0	0	0	0
Granted	0	0	0	0	0
Denied	0	0	0	0	0
Petition by Board to Revoke Probation					
Filed	2	0	11	32	1
Revoked	0	0	3	7	0
Probation Cases					
Active	174	159	140	134	132

* FY 10/11: July 1, 2009 – August 31, 2010

Revised: September 1, 2010


FISCAL YEAR 2011
July 1, 2010 - August 31, 2010
Total Number of Complaints Opened - 86
Total Number of Violations - 129
(A complaint may contain multiple violations)
Number of Alleged Violations
0
5
10
15
20
25
30
35
40
45
2
10
4
3
0
2
14
12
5
44
11
1
2
0
1
0
1
9
1
0
7
ACT 10
ACT 15
CCR 302A
CCR 303
CCR 304
CCR 308
CCR 311
CCR 312
CCR 316
CCR 317
CCR 318
CCR 319
CCR 355
CCR 360
CCR 367.5
CCR 367.7
BP 801
BP 810
BP 1051
BP 1054
HS 123110
Violation
ACT 10
ACT 15
CCR 302A
CCR 303
CCR 304
CCR 308
CCR 311
CCR 312
CCR 316
CCR 317
CCR 318
CCR 319
CCR 355
CCR 360
CCR 367.5
CCR 367.7
BP 801
BP 810
BP 1051
BP 1054
HS 123110

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

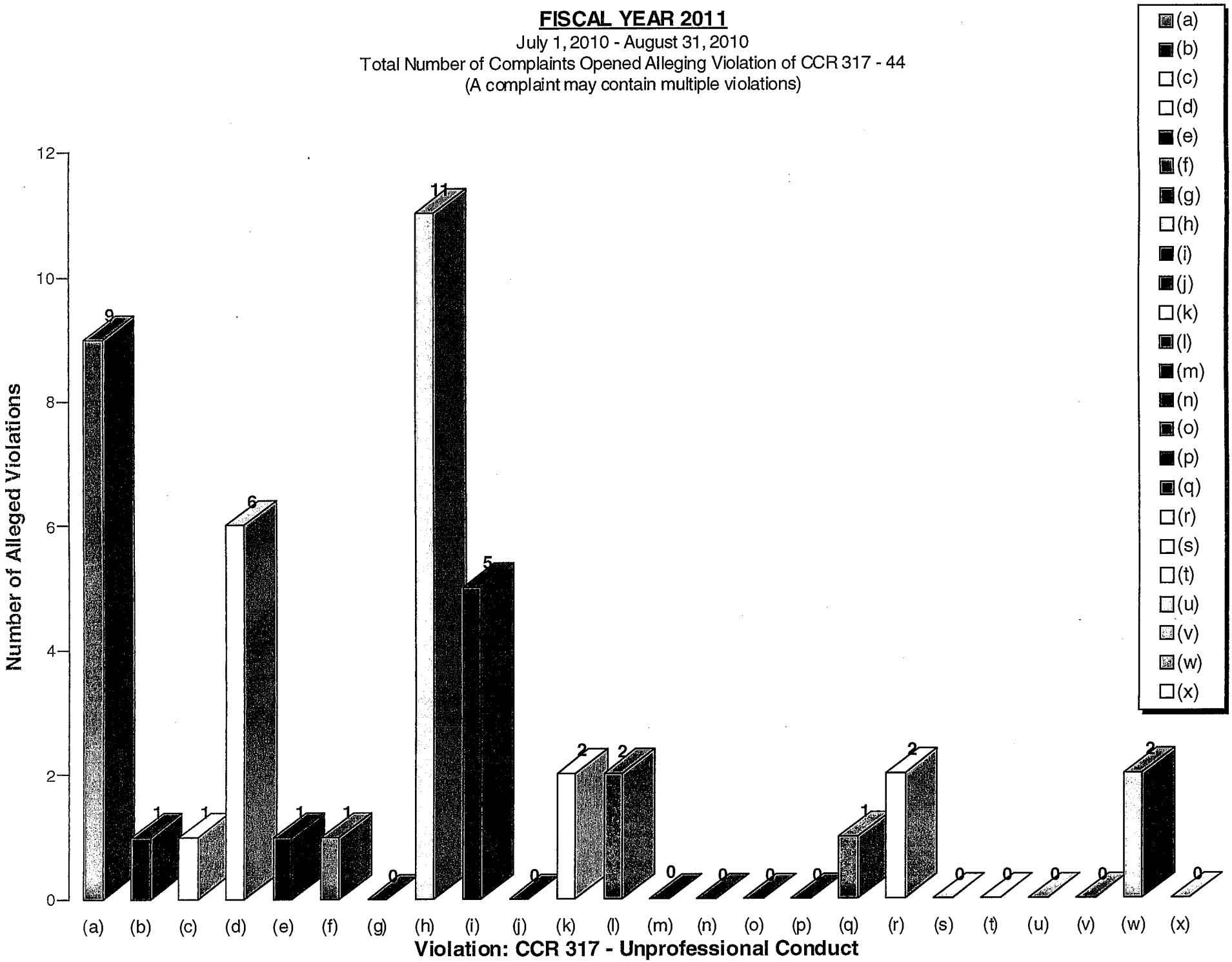
Health and Safety Code (HS):

123110 – Patient Access to Health Records

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 2011
July 1, 2010 - August 31, 2010
Total Number of Complaints Opened Alleging Violation of CCR 317 - 44
(A complaint may contain multiple violations)
Number of Alleged Violations
0
2
4
6
8
10
12
9
1
1
6
1
1
0
11
5
0
2
2
0
0
0
0
1
2
0
0
0
0
2
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)

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | ARNOLD SCHWARZENEGGER, GOVERNOR

MEMORANDUM

Date: September 14, 2010

To: **Board Members**

From: Robert Puleo
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 September 23, 2010, public meeting.

Between July 1, 2010 and August 31, 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
July 1, 2010 – August 31, 2010

Name (First, Middle, Last)			Date Issued	DC#
Tomoya		Harada	7/1/2010	**31722**
Lora	Jane	Vaquero	7/2/2010	**31723**
Wendy		Pollock	7/7/2010	**31724**
Alison	Lou	Adamczyk	7/8/2010	**31725**
Hagop		Blikian	7/8/2010	**31726**
Paul	Gatchalian	Capulong	7/8/2010	**31727**
Sean	Hyunkon	Kim	7/8/2010	**31728**
Seongtai		Yang	7/13/2010	**31729**
Shafiq		Ansari	7/16/2010	**31730**
Lief	Forrest	Hands	7/16/2010	**31731**
Tae	Yong	Kim	7/16/2010	**31732**
Jacqualine	Marie	Behymer	7/20/2010	**31733**
Kristin	Barbara	Hazleton	7/20/2010	**31734**
Robert	Alan	Ehrnman	7/21/2010	**31735**
Atina		Jaudy	7/21/2010	**31736**
Michael	John	Lord	7/21/2010	**31737**
Eric	Michael	Davenport	7/28/2010	**31738**
Adam	David	Kipp	7/28/2010	**31739**
Suani	Zeuri	Lara	7/28/2010	**31740**
Ming		Li	7/28/2010	**31741**
Shirohisa		Otake	7/30/2010	**31742**
Thomas	Burton	Sperry	7/30/2010	**31743**
Dyba	Mahmood	Syed-Kalyani	7/30/2010	**31744**
Erik	James	Van Slooten	7/30/2010	**31745**
Tyler	Scott	Wood	7/30/2010	**31746**
Michael	Cole	Wilson	8/3/2010	**31747**
Grayr	Greg	Movsesyan	8/5/2010	**31748**
Jeffrey	Tilford	Anderson	8/6/2010	**31749**
Andrew	David	Faria	8/6/2010	**31750**
Miguel	Antonio	Guedea	8/6/2010	**31751**
Stella		Makovsky	8/6/2010	**31752**
Jaweed	Ahmad	Naweed	8/10/2010	**31753**
Heather	Marie	Taylor	8/10/2010	**31754**
Nilouphar		Zahedi	8/10/2010	**31755**
Mark	David	Mead	8/12/2010	**31756**

Jerome	Hyun	Ri	8/12/2010	**31757**
Mary		Tran	8/12/2010	**31758**
Richard	Edward	Hedrick	8/12/2010	**31759**
Daniel	Joseph	Farkas	8/18/2010	**31760**
Khoa	Dang	Le	8/18/2010	**31761**
Christine	Teano	Lipat	8/18/2010	**31762**
Ryan	David	Beck	8/19/2010	**31763**
Mindy	Anne	Bichel	8/19/2010	**31764**
Ray	Owen	DiBartolomeo	8/19/2010	**31765**
Gina	Marie	Illia	8/19/2010	**31766**
Ryan	Jay	Lee	8/23/2010	**31767**
Stephen	Mark	Legate	8/23/2010	**31768**
Allen	Douglas	Stone	8/23/2010	**31769**
Joseph	Wilfred	Surette	8/23/2010	**31770**
Trisha	Marie	Wimbs	8/23/2010	**31771**
Tomonori		Kawai	8/24/2010	**31772**
Jeremy	Alexander	Steel	8/26/2010	**31773**
Sagarie	Shyamanthie	Seneviratne	8/31/2010	**31774**

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | ARNOLD SCHWARZENEGGER, GOVERNOR

MEMORANDUM

Date: September 14, 2010

To: BOARD MEMBERS

From: Robert Puleo
Executive Officer

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

This is to notify the Board that no Continuing Education Providers have been approved during this reporting period.

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: September 14, 2010

To: **Board Members**

From: Robert Puleo
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 July 1, 2010 and August 30, 2010, staff reviewed and confirmed that applicants met all statutory and regulatory requirements for licensure. No denials of licensure were issued for this timeframe, 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: September 14, 2010

To: **Board Members**

From: Robert Puleo
Executive Officer

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

This is to recommend that the Board waive the two year restoration requirement of a cancelled license for the individuals named on the attached list at the September 23, 2010, public meeting.

Staff reviewed and confirmed that the applicants met all other regulatory requirements for restoration including sufficient continuing education hours.

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

Recommendation to Waive Two Year Requirement on Restoration of a Cancelled License

Name (Last, First MI)	License No.	Cancellation Date
Lightner, Walter	21741	03/31/2010
Mertz, Stephen A.	18291	05/10/2010
Swinarski, Debbie E.	21862	04/30/2009
Thomason, Brian E.	24231	12/31/2008

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
www.chiro.ca.gov

Review of Written Comments Received During the 15-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 were presented to the Board for review and consideration at its July 29, 2010, public meeting. As a result, the Board modified the proposed language, and board staff issued a 15-day Notice on August 19, 2010.

A summary of the oral and written comments received during the 15-day comment period are presented below.

Action Requested:

Staff requests the Board to review and consider the public comments received during the 15-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: Charles Davis, D.C., President and Eric Banta, Executive Director of the International Chiropractors Association of California (ICAC) opposes the modification to the course definition and requests that the definition be changed back to the definition reflected during the 45-day comment period. ICAC asserts that requiring a separate course application for each subject matter will drastically increase the seminar application fees for providers.

Staff Suggested Response: Staff recommends that the board reject this comment. The 12-hour limitation which appeared in the course definition during the 45-day comment period was not intended to drive the fees of a course, but rather to limit the amount of time a licensee spends in a classroom on a specific date and increase the licensee's retention of the subject area taught. Fees should be driven by the board's workload associated with review and approval of the CE Course Applications. Board workload variations depend on the number of subject areas taught and the number of instructors, rather than the number of CE hours granted to licensees for participation. For example, current CE regulations allow providers to submit one application and fee for a seminar given over several days and covering multiple subject areas. Applications such as this example may take the board several days to review and process. Currently, providers who offer a course in

a single subject area are charged the same fee as providers who offer a course in multiple subject areas. Charging providers for each subject area is the most equitable and just solution for providers and the board.

Comment 2: Mark Cymerint, D.C, opposes the proposed CE regulations for the following reasons:
a) The laws and regulations are available to all licensed chiropractors and the general public on the board website and have been available in hard copy as well; therefore, making the laws a mandatory subject category for CE is unreasonable, childish and unprofessional.

Staff Suggested Response: Staff recommends that the board reject this comment as this comment was made by Dr. Cymerint during the 45-day comment period and was previously addressed by the board.

b) The mandatory subject areas of ethics and law, history taking and physical examination procedures, chiropractic manipulative techniques and proper billing and coding are taught currently at chiropractic colleges and are not a necessity for CE. Pharmacology is not within the scope of chiropractic and learning specific pharmacological approaches that are taught would put the general public at an even higher risk.

Staff Suggested Response: Staff recommends that the board reject this comment. Similar concerns regarding CE subject areas taught at Chiropractic College were raised by Dr. Jennifer Price during the 45-day comment period and were previously addressed by the board. Concerns regarding pharmacology being outside the scope of chiropractic were raised by Dr. Cymerint during the 45-day comment period and were previously addressed by the board.

c) A complete overhaul of the Chiropractic Initiative Act in regards to CE seems to be a drastic change of the entire educational system to accommodate the few offenders. The increase in hours will cause an economic hardship on doctors of chiropractic, especially those who not utilize computers and cannot take advantage of distance learning.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period. Similar comments regarding the reason for the proposed changes and economic hardship were raised by several people during the 45-day comment period, including, but not limited to, Dr. Ples Robertson, D.C., Dr. Tim O'Shea, D.C., Dr. Rick Cederstrom, D.C., and Dr. Sheila Chatari, D.C. and were previously addressed by the board.

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 every year; and the CE subjects and categories are arbitrary.

Staff Suggested Response: Staff recommends the board reject this comment as the same comments were made by this person during the 45-day comment period and were previously addressed by the board.

e) Section 361.1-16 #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. How will attendance at board meetings for CE enhance one's knowledge of current medical conditions?

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: Staff recommends the board reject this comment as the same comments were made by this person during the 45-day comment period and were previously addressed by the board.

f) Section 362(d)(1) – This provision does not address changes in staff and the steps to be taken in the event of a change.

Staff Suggested Response: Staff recommends the board reject this comment as the same comment was made by this person during the 45-day comment period and was previously addressed by the board.

g) Section 362(d)(4) – Vendors who subsidize a course may change from week to week and location to location; therefore, providers should not be required to disclose this information.

Staff Suggested Response: Staff recommends the board reject this comment as the same comment was made by this person during the 45-day comment period and was previously addressed by the board.

h) Section 363(a)(4) – There are many forms of putting together a curriculum vitae. No other regulatory board in the state of California has a regulatory section of how to write curriculum vitae.

Staff Suggested Response: Staff recommends the board reject this comment as the information prescribed in this subparagraph is standard information that the board requires to review and approve CE Course Applications. This information is currently requested on the CE course application; however, the board felt it necessary to add to the regulations to ensure providers are aware of the information required by the board for CE Course Application approval.

i) Section 363 – It is insulting to have licensees sign under penalty of perjury that they personally attended a CE course. What is the purpose?

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period.

j) Section 363(b) – The provider denial and appeal process gives too much power to the Executive Officer and the regulation fails to define good cause.

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

l) Section 363.1 – Chiropractic CE 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.

m) 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 Responses to Comment 2 (j-m): Staff recommends the board reject these comments. The same comments were made by this person during the 45-day comment period and were previously addressed by the board.

n) 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: This comment was made by Dr. Cymerint during the 45-day comment period and previously accepted by the board.

o) 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: Staff recommends the board reject this comment as the same comment was made by this person during the 45-day comment period and was previously addressed by the board.

p) 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: This comment was made by Dr. Cymerint during the 45-day comment period and was previously accepted by the board. Changes were made to this section for consistency with Business and Professions Code (BPC) Section 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.

Comment 3: George W. Gay wants to know how the proposed CE requirements will benefit the People of this state and who will really receive the benefits from the increase in CE.

Staff Suggested Response: Staff recommends the board reject this comment as it does not relate to the changes made to the proposed language for the first 15-day comment period. A similar comment regarding the benefits of the proposed CE was made during the 45-day comment period by an Anonymous Commenter and was previously addressed by the board.

Comment 4: Dr. Melvin Shirer, D.C. opposes the proposed regulations and asserts that allowing chiropractors to earn CE credit for courses outside the scope of chiropractic and attendance at board meetings will neither protect the public nor enhance one's knowledge of chiropractic.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to changed made to the proposed language for the first 15-day comment period. Similar comments were made during the 45-day comment period by Concerned Chiropractor, Tim O'Shea, Mark Cymerint, Jerry Jones, Rik Cedarstrom, Jeffrey McCombs, CCA and LCCW and were previously addressed by the board.

Comment 5: William Meeker, D.C, MPH, President/West Campus and Laurie Mueller, D.C., Sr. Director of CE of Palmer College of Chiropractic (Palmer) is in favor of the board's efforts to revise the current CE regulations including the increase from 12 to 24 hours, the revised description of topics, and distance learning. However, they have concerns with the following areas:
a) Section 360 – Palmer does not support the requirement to pay both CE Provider and CE Course fees and recommends that the board choose to either require only one method of approval

(Provider or Course approval) or waive the provider or course approval and fees for PACE approved courses, as long as the topic is allowable under Section 361.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period.

b) Section 361 – Palmer strongly objects to the clause that allows eighteen of the required 24 credits to be met by taking courses not subject to Board review and approval, e.g. The DIRDWC, any Healing Arts Board or Bureau under Division 2 of the BPC or organization authorized to approve courses by any Healing Arts Board or Bureau under Division 2 of the BPC. Palmer recommends the board allow only six hours of credit for non-Board reviewed and approved courses and allow only courses approved by other healing arts boards or bureaus that license professional doctorate-level providers.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period. A similar comment was made during the July 29, 2010 public meeting by Dr. Davis and was previously addressed by the board.

c) Section 362(d)(6)(H) – Providers should not be required to delineate the "mandatory" hours on attendance forms. Every state is different and this language will require providers to custom-create a separate template for every program just for California.

Staff Suggested Response: Staff recommends the board reject this comment as the board needs certification from the provider showing the subject area of the course and the hours granted, including mandatory hours, in order to verify that the licensee fulfilled their CE requirement.

d) Section 363 – Palmer is opposed to the change in course definition which limits a course to one subject area as this language prohibits multi-topic, multi-speaker research conferences such as the Association of Chiropractic Colleges – Research Agenda Conference from obtaining CE approval. Palmer recommends striking the word "one" from the course definition.

Staff Suggested Response: Staff disagrees and recommends the board reject this comment. The proposed language does not prohibit these types of conferences, but rather prohibits the submission of one application and fee for these types of conferences. The documentation a provider has submitted with their CE Course Application for this type of conference as a whole under current regulation or as individual subject areas under the proposed regulations would not differ. Fees should be driven by the board's workload associated with review and approval of the CE Course Applications. Board workload variations depend on the number of subject areas taught and the number of instructors, rather than the number of CE hours granted to licensees for participation. Currently, applications for multi-topic, multi-speaker conferences, such as the example provided above, may take the board several days to review. Charging providers for each subject area is the most equitable and just solution for the board and providers.

e) Section 363(a)(4) - It is excessively onerous to dictate the format and level of detail of information submitted on instructor Curriculum Vitaes. Palmer recommends requiring a standard Curriculum Vitae sufficient to determine the instructor's knowledge and experience in the topic being proposed, rather than listing the detail of information required by the board for review.

Staff Suggested Response: Staff disagrees and recommends the board reject this comment. The information required by the board on Curriculum Vitaes has not changed from what is currently in place. The board has included the requirements in the proposed regulations to ensure that providers are aware of the documentation required for approval of a CE Course Application.

f) Class breaks should not be at the discretion of the instructor, but instead, the provider. Instructors are contracted or employed by the Provider who holds the responsibility and legal liability risk for the course.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period.

g) Section 363.1 – Palmer recommends adding a subsection to read, "C.E. Providers must provide learners with an affidavit to sign and return prior to issuing a CE certificate for distance learning activities that are not timed. Such activities may include but are not limited to: audio tapes, video, manuals, or CD's."

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period.

h) Section 364(a)(3) - Palmer recommends allowing CCE-accredited college faculty and/or administrators who have been employed for more than eight credit hours per week for at least six months during any licensure year a full exemption from CE requirements. In cases where a partial exemption is granted, does the exemption apply to the mandatory hours, the other hours, or both?

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period. A similar comment was made during the 45-day comment period by CCA and was previously addressed by the board.

i) Section 366 - The board should have the right to poll learners, but the board should clarify their intent to conduct such polls in a fair and objective manner to avoid bias and to identify the weight such surveys would have in any subsequent decisions regarding the course or CE provider.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period.

Comment 6: David H. Pobran, D.C. opposes the proposal to increase CE requirements from 12 to 24 hours and he does not see a valid reason for this proposal.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period. Similar comments were made during the 45-day comment period by Dr. Tamara Peterson, D.C, Dr. Pobran, D.C. and others and were previously addressed by the board.

Comment 7: Rory S. Brinkerhoff, D.C. opposes the proposal to increase the CE requirements and asserts that the increase in hours will not prevent a chiropractor intent on breaking the law, from doing so.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period. A similar comment was made by Dr. Jennifer Price, D.C. during the 45-day comment period and was previously addressed by the board.

Comment 8: Scott A Dubrul, D.C. opposes the increase in CE requirements as little change has occurred in chiropractic treatment over the last 100 plus years.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period.

Comment 9: Lou Ringler, Ph.D., President of Innercalm Associates/CAMUA provided the following comments:

a) Section 360(h) – Mr. Ringler opposes waiving the fees and BCE application process for courses and providers from the DIRDWC, any Healing Arts Board or Bureau in Division 2 of the BPC or organizations authorized to approve continuing education by any Healing Arts Board or Bureau in Division 2 of the BPC. Dr. Ringler recommends the BCE should afford BCE providers, who have a proven record and longevity (minimum of 10 years) with the Board, to be granted self approval status.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period. Similar comments were received by J. Ray Weltch, D.C., Dr. Tim O'Shea, D.C., and others during the 45-day comment period and were previously addressed by the board.

b) Mr. Ringler recommends that BCE providers and providers approved by the DIRDWC, any Healing Arts Board or Bureau under Division 2 of the BPC or organization authorized to approve courses by any Healing Arts Board or Bureau under Division 2 of the BPC be held to the same standards for retention of CE records and verification of CE given to licensees.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period. Similar comments were received by J. Ray Weltch, D.C., Dr. Tim O'Shea, D.C., and others during the 45-day comment period and were previously addressed by the board.

c) Section 361(h) – This subdivision is not clear whether the total number of hours a licensee can be taken through distance learning is twelve as described in Section 361(c) or eighteen as described in Section 361(h).

Staff Suggested Response: Staff disagrees and recommends the board reject this comment. Subdivision (c) of Section 361 limits the total number of CE hours which can be taken through distance learning to 12 hours, unless the licensee is eligible for an exemption due to a physical disability or is on active duty with a branch of the armed forces of the United Sates as specified in Section 364. Distance learning was added to subdivision (h) in response to a comment received by Life Chiropractic College West during the 45-day comment period in which they inquired whether distance learning courses were limited to BCE providers or could be taken through providers listed under subdivision (h). Therefore, subdivision (h) gives licensees the authority to take CE courses, including distance learning, through the DIRDWC, any Healing Arts Board or Bureau within Division 2 of the BPC or approved by any organization authorized to approve continuing education by any

Healing Arts Board or Bureau within Division 2 of the BPC and does not supersede the limitation of 12 hours of distance learning specified in subdivision (c).

d) Section 362 – There is no criteria for providers of CE. Mr. Ringler recommends the board require providers to show proof that they have successfully passed teaching courses from an accredited college or university and require five years of experience in either teaching or providing courses in the CE field under the aegis of an approved BCE provider prior to applying for a separate BCE provider status.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period. Similar comments were received by Dr. Tim O'Shea, D.C. during the 45-day comment period and were previously addressed by the board.

Comment 10: Donna Liewer, Executive Director of the Federation of Chiropractic Licensing Boards (FCLB) provided the following comments:
a) Section 361(c) – FCLB supports the proposed CE requirements including distance learning and the subject areas specified in Section 361 and believes they meet the requirements of the Office of Administrative Law (OAL) for consistency, non-duplication and necessity.

Staff Suggested Response: Staff thanks the FCLB for their support and recommends the board accept this comment.

b) Section 361(h) – This subdivision is not clear whether the total number of hours a licensee can be taken through distance learning is twelve as described in Section 361(c) or eighteen as described in Section 361(h).

Staff Suggested Response: Staff disagrees and recommends the board reject this comment. Subdivision (c) of Section 361 limits the total number of CE hours which can be taken through distance learning to 12 hours, unless the licensee is eligible for an exemption due to a physical disability or is on active duty with a branch of the armed forces of the United Sates as specified in Section 364. Distance learning was added to subdivision (h) in response to a comment received by Life Chiropractic College West during the 45-day comment period in which they inquired whether distance learning courses were limited to BCE providers or could be taken through providers listed under subdivision (h). Therefore, subdivision (h) gives licensees the authority to take CE courses, including distance learning, through the DIRDWC, any Healing Arts Board or Bureau within Division 2 of the BPC or approved by any organization authorized to approve continuing education by any Healing Arts Board or Bureau within Division 2 of the BPC and does not supersede the limitation of 12 hours of distance learning specified in subdivision (c).

c) Section 361(h)(1) and (h)(2) – The proposal to add the DIRDWC as a source for chiropractic CE makes good sense to ensure that doctors of chiropractic clearly understand these program requirements. However, allowing 18 of the required 24 annual CE hours to come from any of the 36 professions under Division 2 of the BPC does not make sense. FCLB recommends limiting the courses taken under Division 2 of the BPC to the 16 subject areas specified in subdivision (g) of Section 361 or eliminating subparagraph 2 of Section 361(h) altogether.

Staff Suggested Response: Staff recommends the board reject this comment as similar comments were made during the 45-day comment period by Concerned Chiropractor, Tim O'Shea,

Mark Cymerint, Jerry Jones, Rik Cedarstrom, Jeffrey McCombs, CCA and LCCW were previously addressed by the board.

d) Section 362 – This section could be reorganized for clarity. Their major concern with this section is that courses approved by FCLB's Providers of Approved Continuing Education for Chiropractic (PACE) program is not recognized in the proposed regulations; however, the proposed regulations recognize courses approved by PACE- type programs for other health care professions with no chiropractic board oversight. FCLB recommends that courses approved by PACE be recognized in the regulations as none of the proposed requirements are in conflict with the PACE requirements.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period.

e) Section 362 – Subdivisions (a), (e) and (f) duplicate the appeal process. A single section delineating the appeal process would make regulations much easier to read and navigate.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period. A similar comment was received during the 45-day comment period by Dr. Tim O'Shea, D.C. and was previously addressed by the board.

f) Section 363(c)(2) – The language in this subsection specifically limits the form of taking attendance to a paper process. FCLB believes the language in this subsection should be broader to allow for other reliable methods of monitoring attendance and provided an alternative version of this subdivision for board consideration.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period.

(g) Section 363.1 – FCLB recommends assigning a number for reference to the opening paragraph. This paragraph should address learning formats as a single topic. The list is somewhat unnecessarily detailed, making it difficult to add new electronic media that may represent mainstream learning formats in the future. The requirement to disclose instructors' curriculum vitae or resumes for distance learning seems confusing and potentially in conflict with Section 363(a)(4) in which CV's are part of the general application process. FCLB recommends requiring that the instructor's qualifications for teaching this particular course be clearly identified in the application.

Staff Suggested Response: Staff recommends the board reject this comment. Changes to the enumeration of this section are unnecessary as the inclusion of a number for the opening paragraph would imply that there is more than one paragraph requiring an assignment of a number in this section. Staff disagrees that the list of learning formats makes it difficult to add new electronic media that may represent mainstream learning formats in the future. This section provides examples of learning formats and uses the phrase, "including, but not limited to", which allows for recognition of future distance learning formats. The curriculum vitae requirement is in concurrence with the requirements of Section 363 which requires the instructor's curriculum vitae to be submitted with the application for approval of a course and provides a detailed description of the information required on curriculum vitaes. Additionally, these requirements are also included on the CE Course Application. The requirements of the curriculum vitae were added to the CE Course Application and the proposed regulations to ensure providers are aware of the documentation required by the board for approval of CE courses.

h) Section 364(a)(2) – Since chiropractic licenses in California are renewed annually on the last day of the birth month, it may be clearer to refer to the "period" rather than "year" of initial licensure.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period.

i) Section 364(a)(6) – FCLB recommends deletion of the word "entire" as it is unnecessary and potentially difficult to administer.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period.

j) Section 366 – This section would benefit by numbering the paragraphs as subdivisions for clarity and consistency. The new paragraph that allows board members or designees of the board to attend an approved CE course at no charge for inspection purposes would benefit by adding language to ensure that no CE credits are awarded for such attendance unless appropriate fees are paid.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period. Concerns regarding CE credit granted for attendees performing inspections was raised by Dr. J. Ray Weltch, D.C. during the 45-day comment period and was previously addressed by the board. Additionally, the Board was advised by their legal counsel that granting CE credit to attendees for auditing a course is a conflict of interest.

k) Section 371(e)(2) and (g)(2) – It may be helpful to refer to "regulated jurisdictions" or even "US jurisdictions" depending on the intentions of the board, as such jurisdictions include the District of Columbia, Puerto Rico, Virgin Islands, and Guam.

Staff Suggested Response: Staff recommends the board reject this comment. The board does not choose to broaden the CE exemption beyond states in the United States.

l) Section 371(e)(3) and (g)(3) – FCLB supports the board's inclusion of the Special Purposes Examination for Chiropractic provided by the National Board of Chiropractic Examiners as a means of exemplifying proficiency in the field of chiropractic for individuals wishing to restore their license after forfeiture or cancellation and believes this recommendation meets the requirements of the OAL for consistency, non-duplication and necessity.

Staff Suggested Response: Staff thanks the FCLB for their support and recommends the board accept this comment.

Comment 11: Joseph A. Carr, D.C. opposes the proposed regulations and contends that seminars of a longer duration do not necessarily assure that the information given is a superior quality. He believes the intent of the proposed regulations is to enhance the financial potentials for schools and State associations and eliminate providers in the private sector.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed language for the first 15-day comment period. Concerns regarding the elimination of individual providers were raised by Dr. Jeremy Jones, D.C. during the 45-day comment period and were previously addressed by the board.

Comment 12: Steven Warren, D.C. and Kathy Warren, D.C. oppose the proposed regulations and assert that allowing chiropractors to earn CE credit for courses outside the scope of chiropractic will do nothing to protect the public.

Staff Suggested Response: Staff recommends the board reject this comment it does not related to changes made to the proposed language for the first 15-day comment period. Similar comments were made during the 45-day comment period by Concerned Chiropractor, Tim O'Shea, Mark Cymerint, Jerry Jones, Rik Cedarstrom, Jeffrey McCombs, CCA and LCCW and were previously addressed by the board.

Comment 13: Dr. Robert Schreiner, D.C. objects to the proposed regulations and asserts that the changes appear to be flawed. Dr. Schreiner, D.C. does not understand the reason for the changes, specifically, the increase in required CE hours, and does not know how this will benefit anyone other than CE providers.

Staff Suggested Response: Staff recommends the board reject this comment as it does not relate to changes made to the proposed language for the first 15-day comment period. A similar comment regarding the benefits of the proposed CE was made during the 45-day comment period by an Anonymous Commenter and was addressed by the board.

Comment 14: Jennifer Price, D.C. opposes the proposed regulatory changes and asserts they have no valid evidence based reasoning behind them. Specific comments relating to the changes are as follows:

a) There is no evidence to show that more hours will make better practitioners.

b) The mandatory topics are insulting and not what she would consider "continuing education". 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.

c) Distance learning is not thorough as classes are easily completed without really engaging in the material and can be completed in less than the allotted time. Distance learning would not be in the best interest of the public.

Staff Suggested Response to Comment 14 (a-c): Staff recommends the board reject these comments as they do not pertain to changes made to the regulatory language for the first 15-day comment period.

d) Forbidding the marketing or display of materials for sale at seminars or within the classroom is sill and impractical. Licensees are trying to continue their education so they can improve their practices and provide patients with the latest technology and systems to maximize their experience and results with chiropractic care.

Staff Suggested Response: This comment was made by Dr. Cymerint during the 45-day comment period and was previously accepted by the board.

Comment 15: Michael Karr, D.C. opposes the proposal to increase CE hours as he does not see the wisdom in this, nor has he been made aware of any studies showing the benefits to the public. Chiropractic does not deal with medications and or surgery and thus does not need the increased

studies to stay current as other health care providers do. He also objects to allowing chiropractors to take CE courses approved by other boards as this does not protect the public.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to changes made to the regulatory language for the first 15-day comment period. Similar comments were made during the 45-day comment period by Dr. Tamara Peterson, D.C, Dr. Pobran, D.C. and others and were previously addressed by the board.

Comment 16: Alfred Garbutt III, D.C. has read Dr. Cymerint's comments and agrees with what he has to say. Dr. Garbutt, D.C. believes the board needs to more specifically investigate and identify "why" the small number of people are violating regulations and then address those issues in a precise manner without penalizing the honest practitioners.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed regulatory language for the 15-day comment period. A similar comment was made by Dr. Mark Cymerint, D.C. during the 45-day comment period and was previously addressed by the board.

Comment 17: Christian Bartels, D.C. opposes allowing chiropractors to take CE courses approved by other boards as this does not protect the public. How will attendance at board meetings for CE enhance one's knowledge of current medical conditions?

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed regulatory language for the 15-day comment period. A similar comment was made by Dr. Mark Cymerint, D.C. during the 45-day comment period and was previously addressed by the board.

Comment 18: Gerard Clum, D.C., President of Life Chiropractic College West provided (LCCW) the following comments:
a) In response to LCCW's comments regarding a cost analysis to support the proposed fees given during the 45-day comment period, the board indicated that no such study was performed. However, Minutes from the Board's October 22, 2009 meeting state that such a cost analysis does exist.

Staff Suggested Response: Staff recommends the board reject this comment. Although the minutes of the Board's public meeting held on October 22, 2009 state that such a cost analysis exists, staff is not aware of a cost analysis study that was performed for the Board's prior CE rulemaking package in addition to the Economic and Fiscal Impact Statement (Form STD 399). An Economic and Fiscal Impact Statement was included as part of the board's previously withdrawn CE rulemaking package as well as the current CE rulemaking package and includes the board's workload and fees imposed by the proposed regulations. The Economic and Fiscal Impact Statement for the current CE rulemaking package has been approved by the Department of Finance.

b) Section 361(a) – This subsection defines "implementation date" for purposes of Articles 6 and 7.5. This term is not used in Article 7.5 and reference to that article should be stricken.

Staff Suggested Response: Staff recommends the board reject this comment. This recommendation is technical in nature and affects the clarity of the regulations within Article 7.5.

c) LCCW understands that the board intends for licensees to comply with the new 24-hour CE requirements two years after the effective date. However, the regulation states "implementation date" means two years following [insert effective date]. The word "following" means coming next in time or order. Hence, the regulation would only be implemented for the 2 years following the effective date and would thereafter sunset. The word "following" should be replaced with "after".

Staff Suggested Response: Staff recommends the board reject this comment. This recommendation is technical in nature and does not affect the clarity of this requirement.

d) Section 361(b) and (c) – LCCW recommends the board change the language to read, "For licenses ~~renewals~~ that expire on or after..." The term "renewal" means "to make new or as if new again" and a licensee renews a license that is nearing expiration.

Staff Suggested Response: Staff recommends the board reject this comment. This recommendation is technical in nature and does not affect the clarity of this section.

e) Section 361(b) and (c) – These subsections require licensees to complete either 12 or 24 hours of CE, but do not specify the time frame to complete the training. Without some indication that this is an annual requirement, licensees might assume that this is a once in a lifetime requirement.

Staff Suggested Response: Staff recommends the board reject this comment as continuing education is specified as an annual requirement in proposed Section 371, Annual License Renewals and Restoration. This section specifies that licensees who wish to renew an active license must complete the board's continuing education requirements that were in effect during the license renewal period. Licensees who wish to renew and restore a license in forfeiture or restore a cancelled license must complete the board's continuing education requirements that were in effect that the time of each license renewal period. Licensees who wish to restore an inactive license to active status shall complete continuing education equivalent to that required for a single license renewal period.

f) Section 361(d) – The regulations, as currently drafted, create a 45-day gap where no board approved continuing education courses will be available to licensees. The board must make some provision for licensees caught in the gap between the old and new requirements.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed regulatory language for the 15-day comment period.

g) Section 361(e) – As this section is currently written, licensees would not be required to start earning any mandatory hours until two years (and 30 days) after filing of the regulations.

Staff Suggested Response: Staff agrees and recommends the board accept this comment. The board's intention by adding an implementation date was to allow providers adequate time to modify their CE courses for compliance with the proposed regulations.

h) Section 361(e) – It appears that licensees need only earn the mandatory hours one time as the language does not address how often chiropractors must complete this training.

Staff Suggested Response: Staff recommends the board reject this comment as continuing education is specified as an annual requirement in proposed Section 371, Annual License Renewals and Restoration. This section specifies that licensees who wish to renew an active

license must complete the board's continuing education requirements that were in effect during the license renewal period. Licensees who wish to renew and restore a license in forfeiture or restore a cancelled license must complete the board's continuing education requirements that were in effect that the time of each license renewal period. Licensees who wish to restore an inactive license to active status shall complete continuing education equivalent to that required for a single license renewal period.

i) Section 361(e) – The board's meeting minutes of October 22, 2009 show that the board agreed that the subsections of mandatory training should be sequentially numbered for clarity. However, the board has recently adopted the position that the language is perfectly clear.

Staff Suggested Response: Staff recommends the board reject this comment as it does not pertain to the changes made to the proposed regulatory language for the 15-day comment period.

j) Section 361(f) – The terms "remaining" and "additional" should not be used together and the word "additional" should be stricken from this subdivision.

Staff Suggested Response: Staff recommends the board reject this comment as this is a technicality that does not affect the clarity of this subdivision.

k) Section 361(f) – Life West asserts that if this subsection were clearly written, in simple English that could be clearly understood by the parties directly affected, there would be no need to provide an example.

Staff Suggested Response: Staff recommends the board reject this comment. The example provided in this section does not imply that the language cannot be clearly understood. It is an additional measure to describe and support the method in which CE credit can be granted under the proposed regulations.

l) Section 361(f) – The "example" proffered by the board may lead licensees to believe they <u>must</u> select eight hours of board approved courses and ten hours of courses offered through the Department of Industrial Relations.

Staff Suggested Response: Staff disagrees and recommends the board reject this comment. The example provided in this section uses the operative word "may" which means that a licensee is not restricted to the example provided in this subdivision.

m) Section 361(g) – The sixteen items listed in this section were never intended to list every single topic that might be approved now or in the future. As it reads now, if a subject is not on the list, it will be denied.

Staff Suggested Response: Staff disagrees and recommends the board reject this comment. The sixteen subject areas listed in this subdivision were intended for use in approving CE Course Applications and are sufficiently broad for topics related to the practice of chiropractic. However, licensees are not restricted to courses within these subject areas and may take courses outside of these subject areas through the DIRDWC, any Healing Arts Board or Bureau within Division 2 of the BPC or approved by any organization authorized to approve continuing education by any Healing Arts Board or Bureau within Division 2 of the BPC.

n) Section 361(g) – Subsection (g) states that topics *shall be limited to* the following subject areas. Subsections (6), (9) and (11) of subsection (g) then provide lists of subjects "including, but not limited to…" The phrase "shall be limited to" should be stricken.

Staff Suggested Response: Staff disagrees and recommends the board reject this comment. The sixteen subject areas listed in subdivision (g) are general and include examples of topics related the subject area. BCE providers are restricted to offering courses within the general subject areas specified in this subdivision, but are not restricted to providing courses on the topic examples listed within the subparagraph. For example, a provider may offer a course in the aspects of special population care as related to the practice of chiropractic; however, the course is not restricted to geriatrics, pediatrics and athletic care.

o) Section 361(g) - By placing subsection (14) within subsection (g), it requires that a course in CPR be approved by the board for a licensee to receive credit. This item should be moved to a new subsection (j).

Staff Suggested Response: Staff disagrees and recommends the board reject this comment. The placement of CPR within subsection (g) allows BCE approved providers to offer courses in CPR. It does not prohibit a licensee from attending a CPR course offered by any Healing Arts Board or Bureau within Division 2 of the BPC or approved by any organization authorized to approve continuing education by any Healing Arts Board or Bureau within Division 2 of the BPC.

p) Section 361(g)(15) - Credit for attending a chiropractic board meeting does not belong with courses approved by the board, as it is not a course as defined in Section 363. This item should be moved to subsection (k).

Staff Suggested Response: Staff disagrees and recommends the board reject this comment. The Board considers Board meetings a valuable source of education for chiropractic licensees and is proposing to grant CE credit for attendance at a full board meeting, as it would for any other course offered by an approved provider; therefore the placement of this subparagraph does not need to be changed. Further, the board has to monitor and confirm a licensee's attendance in order to approve and grant CE credit.

q) Section 361(h) – The addition of the phrase "including distance learning" may confuse licensees and lead them to believe they make take all 18 hours of non-mandatory courses through distance learning offered by the Department of Industrial Relations or any other Healing Arts Board.

Staff Suggested Response: Staff disagrees and recommends the board reject this comment. Subdivision (c) of Section 361 limits the total number of CE hours which can be taken through distance learning to 12 hours, unless the licensee is eligible for an exemption due to a physical disability or is on active duty with a branch of the armed forces of the United Sates as specified in Section 364. Distance learning was added to subdivision (h) in response to a comment received by Life Chiropractic College West during the 45-day comment period in which they inquired whether distance learning courses were limited to BCE providers or could be taken through providers listed under subdivision (h). Therefore, subdivision (h) gives licensees the authority to take CE courses, including distance learning, through the DIRDWC, any Healing Arts Board or Bureau within Division 2 of the BPC or approved by any organization authorized to approve continuing education by any Healing Arts Board or Bureau within Division 2 of the BPC and does not supersede the limitation of 12 hours of distance learning specified in subdivision (c).

r) Section 362(c) – If the board is renewing and approving applications at its meetings, there is no need for the appeal process delineated in subsection (a).

Staff Suggested Response: Staff recommends the board reject this comment. This language appears in the current CE regulations and was added to the proposed regulations to allow for the ratification of approved CE providers by the Board members. The board will review "complete" CE Provider Applications at the board meeting. Applicants, who are denied by the board (staff), will have the opportunity to appeal the decision to the Board at a Board meeting for approval.

s) Sections 362(d)(2) and (d)(6) – There is no reason for the board to require sponsors to generate and retain more paperwork than necessary. The provision that providers "retain attendance records for four years from the date of course completion" is sufficient and should be restored to the regulation.

Staff Suggested Response: Staff recommends the board reject this comment. The requirement for retention of specific records was included in the regulations to ensure that providers are aware of specific documents that may be requested by the board.

t) Section 362(d)(3) – The board requires sponsors to maintain course instructor curriculum vitae for four years, but there is no requirement to maintain records of what was taught in the course. This is important information that should be maintained by the sponsors.

Staff Suggested Response: Staff recommends the board reject this comment as it does not relate to the changes in the proposed language for the first 15-day comment period.

u) Section 362(d)(2), (3) and (6) – Rather than listing what documents the board wishes providers to maintain in three separate subsections (subsections 2, 3, and 6), the record keeping provisions should be placed in one subsection.

Staff Suggested Response: Staff disagrees that these three subsections should be combined into one subsection and recommends the board reject this comment. The responsibilities of the provider were broken down into subparagraphs for clarity and are placed into separate subparagraphs which describe each document and the responsibilities of the provider in relation to that document.

v) Section 363(a)(1) and (2) – It appears that subsection (1) and (2) are requesting the same information in two separate documents. An "hourly breakdown of the continuing education course" would also be contained in the document requested in subsection (2), "a final copy of the syllabus/course schedule".

Staff Suggested Response: Staff disagrees and recommends the board reject this comment. A provider's course syllabus may or may not include an hourly breakdown of the continuing education course. The board wants to ensure that this information is included with the CE Course Application, even though the information may be contained in one document.

w) Section 363(a)(4) – The board should amend its Initial Statement of Reasons to set forth the specific purpose and rationale for adopting each requirement of this subsection.

Staff Suggested Response: Staff recommends the board reject this comment. The specific purpose and rationale for this section was stated in the Initial Statement of Reasons and supports

the changes made to the proposed language. Specifically, the Initial Statement of Reasons states, in part, "The section further...*sets forth the criteria for course approval which are absent from the current regulations...*"

x) Section 363(a)(4) - There is no rationale offered for restricting a course to only one subject and this requirement should be removed.

Staff Suggested Response: Staff recommends that the board reject this comment. The 12-hour limitation which appeared in the course definition during the 45-day comment period was not intended to drive the fees of a course, but rather to limit the amount of time a licensee spends in a classroom on a specific date and increase the licensee's retention of the subject area taught. Fees should be driven by the board's workload associated with review and approval of the CE Course Applications. Board workload variations depend on the number of subject areas taught and the number of instructors, rather than the number of CE hours granted to licensees for participation. For example, current CE regulations allow providers to submit one application and fee for a seminar given over several days and covering multiple subject areas. Applications such as this example may take the board several days to review and process. Currently, providers who offer a course in a single subject area are charged the same fee as providers who offer a course in multiple subject areas. Charging providers for each subject area is the most equitable and just solution for providers and the board.

y) Section 363(c)(2) – If the board wants to specify exactly what documents providers must keep in their files, it should list them all in one place for clarity. The appropriate place to mandate providers' record keeping is in Section 362.

Staff Suggested Response: Staff recommends the board reject this comment. The sign-in sheet is described in Section 363 as it is a document required by the provider at the time a course is offered. Duties and responsibilities of the provider specifically relating to requirements of a CE course are specified in Section 363; therefore, the mandate regarding retention of the sign-in sheet is appropriately placed within Section 363.

z) Section 370(a) - If Assembly Bill 1996 is signed by the Governor, this fee will change to $250. The regulation should be revised to reflect either the changed dollar amount or reference the appropriate statute.

Staff Suggested Response: Staff recommends the board reject this comment. The proposed regulations are drafted for consistency with the renewal fee currently specified in the Chiropractic Initiative Act. If the bill is signed by the Governor, the board will prepare a Section 100 change to amend this regulation.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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Comments on the proposal for continuing education requirements

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INTERNATIONAL CHIROPRACTORS ASSOCIATION OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS
AUG 30 PM 2:21

August 26, 2010

Memorandum to: The California State Board of Chiropractic Examiners

From: International Chiropractors Association of California
Charles Davis, D.C. President
Eric Banta, Executive Director

Comments on the proposal for continuing education regulations

Unilateral changing of the proposed continuing education requirements.

The notice given by the state Board of Chiropractic Examiners (05/24/2020) states:

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (hereafter "board") is proposing to adopt, amend, repeal and renumber regulations described in the Informative Digest below. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the Board of Chiropractic Examiners at its office no later than 5:00 p.m. on May 24, 2010.

The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Business Impact:
Businesses offering CE courses will incur fees associated with the application process; however, these fees will be offset by the increase in revenue generated by the wider range of courses they can provide. New fees proposed in these regulations include a $75 application fee for new CE providers and a $50 biennial renewal fee for providers who have previously been approved by the board. There are approximately 75 providers approved by the board who will incur a biennial renewal cost of $50. On average, the board receives 8 provider applications per year who will incur a cost of $75 each.

363. Approval of Continuing Education Courses. (original language)
Other than the above, these regulations will not cause any significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

ICAC does not agree with the previous paragraph. The new language presented to us on July 29, 2010 will increase our seminar application fees drastically.

9700 Business Park Drive, Suite 305
Sacramento, California 95827
800-275-3515 916-362-8816
916-362-4145 Fax (www.icacweb.com)

INTERNATIONAL CHIROPRACTORS ASSOCIATION OF CALIFORNIA

> **A "course" is defined as an approved program of coordinated instruction, up to 12 hours in length, in any of the categories 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.** (May 24, 2010)

This was changed by BCE staff unilaterally and presented at the BCE meeting (07/29/2010) as follows:

> **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.**

The new regulation has mandatory sections (11), (3), (5) and (10) along with the radiological board's requirement of x-ray education hours. This proposed change will cause an **increase of up to 4 times the currant application fee for a 12 hour seminar.**
There were BCE committee meetings in which the BCE staff, BCE committee members, and Executive Directors of the International Chiropractors Association of California, the California Chiropractic Association and Chiropractic colleges in the state of California in which the agreement was:

> A "course" is defined as an approved program of coordinated instruction, up to 12 hours in length, in any of the categories 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.

Apparently the CSBCE staff has made an "end run" on the providers and perceives the providers of continuing education as cash cows and can disregard previous agreements.

We respectfully request that the CSBCE insert the language that all of the providers and the CSBCE Continuing Education Committee agreed on before submitting the regulations to the OAL.

Van Allen, Dixie@CHIRO

From: Mark Cymerint [markcymerintdc@gmail.com]
Sent: Wednesday, September 01, 2010 10:51 PM
To: Van Allen, Dixie@CHIRO
Subject: 15 Day Response to Proposed CE Changes Thanks So Much Dixie

Signed Copy is faxed to you.

To: Board of Chiropractic

ATTN: Dixie Van Allen

2525 Natomas Park Dr. Ste 260

Sacramento, CA 95833

CC: Chiropractic Board Members & OAL, 300 Capitol Mall, Ste.1250, Sacramento, CA 95814-4339

Dear Dixie Van Allen, Chiropractic Board Members, & OAL Members,

I am responding to the most recent regulatory proposed changes that I received September 1st, 2010 even though the deadline to respond is September 3rd, 2010 at 5:00pm. This is the 5th response letter that I have taken the time to write. I would like to remind this board that in 1996, the chiropractic board tried to overhaul and make changes to continuing education. The changes were overturned by the California Office of Administrative Law (OAL). The OAL found that the board did not have any clarity, consistency, or necessity for change. Therefore, they rejected the board recommendations for a permanent regulatory law change.

This current first 15 day comment period draft, is ultra confusing. Even to a person like myself who has been following the prior drafts it is very unclear and very difficult to understand. It seems ironic that the first sentence in the draft says, "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 the first 15 day comment day period the underline and strikeout from the original proposed language are not repeated here." This in itself is confusing! Before I respond to the details in the most recent proposal, I would like to comment on the board's reasons for change. The board believes that CE is a proactive approach that may prevent licensees from violating the board's laws and regulations. There have not been any studies or research done that would constitute the necessity for these changes nor is it consistent with other licensing boards not only in CA, but nationwide. The vagueness shows no clarity and is very confusing to the doctors in the state of CA, lecturers, providers, and the general public. The laws and regulations are available to all licensed chiropractors and the general public on the board website and have been available in hard copy as well. Thus making the laws, a mandatory subject category for continuing education would be equivalent to reading the laws to licensed doctors at a CE seminar.

This seems not only completely unreasonable and childish, but unprofessional as well. Violators should be punished according to the crime, and if a secondary (traffic school like) program for violators is created that would be a possible solution. But to arbitrarily without any clarity, consistency, and necessity add this topic to a mandatory category for CE is absolutely unfounded. CE

is designed to update doctors of chiropractic with new changes, new advancements, new technologies, and new research that would help update and educate them to ultimately protect the citizens of the state of CA. This system is currently in place and not broke.

The new mandatory hours which by the way, is going to double to 24 hours per year, would include subjects like ethics and law, history taking, and physical exam procedures, as well as chiropractic manipulative techniques and proper billing and coding. These are subjects that are taught currently at chiropractic colleges and not a necessity for CE. As far as the subject of pharmacology being taught at a chiropractic CE seminar, I would like to remind the board that pharmacology is not taught in any accredited chiropractic college in the world. It is against our scope of practice act and is in violation of the chiropractic initiative act. Thus putting the chiropractor at risk by learning specific pharmacological approaches that are taught by other licensing boards in the state would put the general public at even a higher risk.

This does not seem to define chiropractic CE. Since there are a handful of complaints and disciplinary actions by the board, a complete overhaul of the chiropractic initiative act in regards to CE seems to be a drastic change of the entire educational system to accommodate the few offenders. In regards to cost impact to private persons or business there **will** be a cost impact on the 13,900 doctors of chiropractic by adding additional 12 hours of CE requirement. Believe it or not many elderly chiropractors in this state still do not utilize computers and will be forced to travel to a CE seminar and experience financial hardship that would double their costs that they are currently paying for CE as well as the hardship of traveling and sitting through another 12 hour seminar. The board assumes that everyone is automated in this state and will utilize online courses. But this simply is not the case and needs further review and study to determine the cost impact on private business owners and doctors of chiropractic. Therefore, in my opinion there will be a tremendous effect on many D.C.'s in the state who cannot do the distance learning option. For whatever reason it may be.

In response to the consideration of alternatives the board claims no reasonable alternative that is considered would be more effective in carrying out their purpose. They also claim that any interested person may present statements in writing relevant to these proposed changes. As I stated earlier, this is my 5th personal letter of response, and I know of many other providers, lecturers, and doctors of this state including chiropractic colleges who have also wrote letters of opposition to these changes. None of the letters have ever been responded to in writing or the suggestions in these letters have obviously had little or no effect. In a democracy, there is room for improvement by letting all views and solutions be heard. Based on the first draft back in June of 2009, to this most recent draft of September 2010 obviously there was not much consideration put into the alternatives proposed by parties that were opposed to these proposed regulatory changes. I will attempt to comment on several of the proposed regulatory changes with my opinions and legal arguments.

Section 361- Continuing Education Requirements

Raising the hours from 12-24 hours

There are no cited facts, written studies, or expert witness opinions that prove that more hours for a chiropractor per year are better. The necessity standard of the OAL would need much more in order to increase hours just for the sake of increase. Chiropractic does not have the vast advent of pharmacology and surgical procedures that would warrant additional hours every year. Also, this new proposal lacks clarity in the fact that they are putting the hours into subjective categories and it is unclear to both providers and D.C.'s about the rhyme and reason for their arbitrary subjects in these arbitrary categories. Much more clarity is necessary in order to figure out the proposal. The board also wants to go to a two category system: Mandatory hours and other approved hours. In sub paragraph (f) it is very unclear of the courses that would be in this category. It is confusing to the

providers and the general public. This whole section needs to be re-written with clarity, consistency, and some sign of necessity in order to make a regulatory law change on this section.

Solution:

No regulatory change is needed.

361.1- 16, #2 Courses that are taught by the department of industrial relations, division of workers compensation and courses approved by any healing arts or bureau shall be automatically approved by the chiropractic board

First of all it is absolutely beyond belief that this board would automatically approve courses from other boards in CA which may or may not have followed the requirements for chiropractic CE set out by this board. **How could this possibly protect the citizens of CA?** For what reason would a seminar by a dentist, or licensed hair dresser, qualify for automatic approval by this board? It absolutely makes no sense. The courses approved by other boards have followed the guidelines of their own boards, not the chiropractic criteria. I would like to ask the OAL how does this make the citizens of CA safer from chiropractors? The board is claiming that public safety is their main issue, I highly doubt that based on this proposal.

No other board in the state of CA has reciprocity with chiropractic CE courses. We would have to apply and be under the same guidelines and regulations that are set up by those individual boards in order to get board approval for our chiropractic CE course. Therefore it is unclear why our board would want to allow other programs from other professions ex... dentistry, medicine, podiatry, which is all out of our scope of practice to be included automatically in a chiropractic CE seminar. There is no clarity, necessity, and consistency at all to this proposed regulatory change. This would also open up a can of worms for chiropractors who attend another board CE seminar could therefore claim that they were taught and certified to perform techniques that are outside of the chiropractic scope of practice. This is not only insane, but is actually a dangerous idea for the safety of the citizens of the state of CA.

In regard the proposal of attending a full board meeting will give a licensee CE hours, my question would be how does this enhance ones knowledge of current medical conditions, protect the citizens of CA, and why would this be allowed for CE credits?

Solution:

All courses of chiropractic CE must be submitted by an approved chiropractic provider and follow all current guidelines and regulations of the chiropractic board. Unless all chiropractic CE courses are uniformly accepted for CE approval automatically by all other healthcare boards in CA then the chiropractic board should absolutely not grant the automatic approval of other approved licensing board seminars without those seminars following the guidelines that are set up in these proposed regulations. Why is this board holding chiropractic CE to a different set of standards and requirements that are not being held up in other licensing boards in the state. This seems biased and prejudice. In regards to the increase in hours to 24, comparing us to physicians, surgeons, dentist's is not a valid argument in the fact that our chiropractic profession does not change drastically from year to year to warrant an increase in hours. This proposal needs to be carefully drafted with proof and not changed just for the sake of change sake alone.

No change to this section is warranted period.

Licensees should complete a minimum of 2 hours in subparagraph 13 and a minimum of 4 hours or combination of in subparagraph 3, 5, or 12

It is very confusing and unclear what the board is proposing. There is nothing written in subparagraph 13 in the modified proposed text it is crossed out. Once again, raising clarity, necessity, and consistency. No evidence or proof has been proposed to change the vast range of topics that is currently in place for educators and CE providers. Once again, change for the sake of change alone is not the criteria that would warrant an overhaul.

Breaking down topics that would be allowed to be taught, is narrowing the range of topics and putting limitations on CE instructors on topics that are currently approved. We feel no change is necessary to our current educational standards that have been in place for decades. The current topics allow for an extremely wide range of educational topics for CE instruction making the chiropractor safer and protecting the citizens of CA.

Solutions:

If the board wants to expand topics and categories to be included with the already existing topics and categories, there is a category called "OTHER" where an instructor and CE provider can present new, cutting edge, or different topics that the board could approve or disapprove in our current system. No regulatory change is therefore necessary or consistent with the CE system. In The 1996, disapproval by the OAL they pointed out that there was no rational evidence presented for the specific hour requirements and categories for CE course subjects. There is no evidence that indicate that practitioners are weak in any of these topics and need prescriptive measures to correct a deficiency. If there is no problem that is proved in the first place, then there is no solution that needs to be corrected.

E- Providers shall : #1. Identify an individual responsible for overseeing all continuing education activities of the provider

Once again, this provision lacks clarity. Questions: What if there is a change in staff? Does the provider have to re-apply for the seminar? Does the provider need to notify the board of the new person responsible for oversight? What needs to happen in the event of any change? None of these were addressed by the board it is just a blanket statement lacking clarity, consistency, and most importantly a necessity for a regulatory legal change in the state law.

Solution:

No change to the current law is warranted.

E- Providers shall: #4. Disclose to perspective participants the names of the organizations or individuals if any, who have underwritten or subsidized the course.

First question: Why? Once a again a blanket statement with no clarity, consistency, or necessity or a regulatory change. Second question: Vendors who may subsidize a course may change from week to week and location to location. How then would the seminar notifty the board? Would the provider need to re-apply to the board if there is a change in a sponsor from the original application? Would the provider just email the board of any changes? How is the public protected by this change? How does this change make the attendees safer in the field? These blanket statements by the drafters of this document have failed to clarify many of these proposals leaving the reader in the dark, confused and in disbelief of the reasons for a regulatory legal change.

363 Approval of Continuing Education Courses #4 Curriculum Vitae

There are many forms of putting together curriculum vitae. This is a professional resume. The board wanting the type of information that they have wanted to make a regulatory law change does not make any sense. No other regulatory board in the state of CA has a regulatory section of how to write

curriculum vitae. This completely lacks clarity, is not consistent with other boards, and has not demonstrated any necessity for a regulatory law change. It puzzles the reader of why this is even in there.

Solution:

No regulatory changes warranted.

363 Approval for Continuing Education Courses Section 2 – Each Hour of CE credit

In this section it states that providers shall furnish a sign in sheet that contains information about the seminar to be signed by the licensee at the beginning and conclusion of each course day. That is fine. However, it states furthermore that the provider shall state that a licensee by signing their name on that sheet is declaring under penalty of perjury that they personally attended the stated course on the stated date and they personally attended the listed hours of the course. This is insulting. And lacks tremendous clarity. First of all, if they sign the sign in sheet in the morning and in the afternoon why would the provider have to add a whole statement about declaration under penalty of perjury and holding the licensee that they personally attended the listed hours of the seminar. First question is what if the licensee only attends partial hours of a program? Should they therefore not sign the sign in sheet? This is very unclear to all parties involved including instructors and doctors and general public. Why that is even in there is not understood. The board has not demonstrated this to be consistent with other boards nor has clarified any of the questions that have come up. And also, this board has not demonstrated any necessity for this regulatory change.

Solution:

No regulatory change is warranted.

Section 363 #4 (b) CE provider denial and appeals process

This new proposed regulatory change lacks clarity. It would put the executive officer and future boards in an excessive power position. This could in the future jeopardize the integrity of CE education in CA by potentially having an executive officer/board member with a personal agenda having the power to approve or disapprove a seminar at their personal discretion. This proposal lacks clarity, necessity, and consistency with our current regulations. This dangerous precedent could be grounds for future lawsuits and administrative burden for the board staff. My question, what is the problem with our current CE provider requirements and responsibilities that have been in place for over 30 years? How is the new proposal going to solve 30 years of no problems? It's very unclear. Also, it claims that the executive officer of the board would be able to withdraw an already approved program of the CE provider for good cause. It does not specifically address what good cause is, it does not say if it is the personal vendetta of the executive officer against a provider, or a political reason, or hear say or complaint that has not been proven. There should be a thorough investigation by the board of any accusations or allegations against an approved CE provider before the provider is removed from his/ her provider status. **This extremely dangerous precedent will automatically make a provider guilty until proven innocent which goes against the US constitution and the laws of the state of CA.** A provider would therefore lose the ability to earn an income in the state of CA for almost a year, before they get a final answer from the executive officer of the board. This possibly could be a violation of the Sherman Anti Trust Laws of the United States, in which one is prohibited of earning a living by a prejudice accusation of another without due process. This would open up this board to a series of litigations by providers who are wrongfully denied the ability to put on a seminar for almost a year. Especially in the case of a fraudulent accusation. The board also feels that this is a necessary due process to ensure that chiropractors receive CE from reputable providers in order to protect the public. What do they mean by reputable provider, who is reputable in

their opinion? Who is reputable in the executive director of the board's opinion? What is the criterion that the executive director is using to define reputable provider? There is already a very effective system in place for defining "reputable" it is the current 5 year apprenticeship program. In this program the future provider must teach CE seminars in the state of CA for 5 years and have knowledge of how to be a provider before actually being approved as a provider of CE. The board is about to throw out a valid system and replace it with an arbitrary system where any employee of the board could be instructed to cancel a seminar based on a so called "non reputable provider."This could appear to readers of this draft, like there is a possible plot to remove certain providers. In a worse case scenario this change would give significant power to some future board members with a possible agenda against certain CE providers. This could set a dangerous precedent for the future integrity of CE in the state of CA.

Solution:

Keep our current regulatory system intact which provides for disciplinary action and/or denial of courses based on fraud, and/or rule violations by the provider. This is a serious amendment and is not consistent with the laws of the United States and the State of CA. Being deemed guilty until proven innocent is not the direction that this state board needs to take. **No change in regulation is warranted.**

Section 363

In this section the board has claimed that the courses that they approve meet a minimum standard by the board. What is that standard? Once again, this section has absolutely no clarity to any reader involved. The board shall not approve the following subjects for CE: financial management, income generation, practice building, collections, self motivation, and patient recruitment. What is the basis of these subjects being rejected? Are there any studies or other boards that have adopted these changes in the state of CA? It is very unclear. We are in the middle of the worst economy in the US history. By taking away the right of a chiropractor to learn how to manage his finances and stay in business in the state of CA would not only be damaging to the chiropractor but would possibly hurt the citizens of CA if chiropractors were going out of business because they had no proper financial management skills. That seems to be the case right now where many current licensed chiropractors are going under due to the economy and lack of financial responsibility. When they go out of business the citizens of the state of CA loose access to chiropractic care. In rural communities this can be a huge problem.

Although I don't engage in these subjects to arbitrarily place a restriction on these subjects without demonstrating clarity, necessity, and consistency with current CE course curriculums would not be consistent with other health care professions in this state.

Solution:

No regulatory changes warranted.

Section 363.1 – Distance Learning

Chiropractic CE has, is, and always will be a hands-on event. Due to the nature of the practice of chiropractic one must have hands on training in order to protect the citizens of CA. To allow half of CE hours to be obtained by distance learning, is absolutely putting the citizens of CA at risk from incompetent practitioners. The vagueness in the board's proposal for distance learning using CD's, videotapes, and audio tapes shows that this board has no experience in the arena of distance learning. Since CA has gone to distance learning for drivers education (which should be another hands on discipline) we have had more teen driving accidents and deaths. If the board can present

factual evidence that a chiropractor is better off taking distance learning, rather than hands on training I would like to see that evidence. Once again this looks like change for the sake of change alone. Or a possible conflict of interest with future board members and chiropractic distance learning companies. This proposal lacks clarity and necessity. 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. Distance learning should only be an option for chiropractors with disabilities who cannot physically attend a live seminar. Chiropractic is a hand's on health care discipline. To assure safety of the CA citizens the attendees must physically attend a seminar for **hands on** training. Also, this proposal lacks clarity. It is very unclear to the reader the details involved in starting distance learning programs. No criteria was ever set up by this board for this arena of learning. And mainly necessity was also left out of the equation.

Solution:

No regulatory changes warranted.

Section 366- Under 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 CE course regarding the quality and content of the course.

The first question is what qualifies the attendee to audit a CE program? It is the attendee's personal opinion of whether a course is good, bad, or neutral. Why would an attendee's opinion be part of an auditing process? If a course is to be audited it should be audited by someone who is trained, and qualified to verify content from a providers application.

Once again, no clarity on this subject, no consistency, and no necessity has been proven. The current regulations provide for CE audits, a letter is sent out to the CE provider or presented to the CE provider prior to the course start. The auditor has to identify himself as an auditor of the SBCE. Change for the sake of change alone. This also would allow for possible fraudulent audits, here say, therefore jeopardizing the safety of the CE provider. The board could say, they were at a seminar when technically they may not have been. Opening the door for one's personal agenda to remove a provider.

Solution:

No regulatory change is warranted because the current system and regulation protects all legal parties involved.

Section 360 CE Audits: Providers who present inaccurate verification shall lose their providers status for up to 10 years at the discretion of the executive officer

This lacks clarity, necessity, and consistency once again. Where did they get the arbitrary number of 10 years and why the executive officer has this much single power making decision? What if there is a legitimate clerical error? What if the attendee gives the provider the wrong state license number or the provider doesn't fully spell an attendees name correctly, does that constitute a 10 year penalty? Why does the executive officer of the board have this type of power? It is not consistent with other boards, or other businesses and government agencies in CA and in the United States. It sets a dangerous precedent and looks as if the drafters have some other agenda.

Solution:

Current chiropractic regulations, that are consistent with other boards, provide for discipline of a CE provider. **No change in regulation is warranted**.

356.5 #4 Providers may not advertise, market, or display material or items for sale, inside the room where the actual instruction is taking place

Educational seminar materials, adjusting instruments, educational materials that are included in CE instruction need to be in the seminar room. The board has not demonstrated clarity and has not provided necessity for this regulatory change. It is also inconsistent with other health boards in this state. If an instructor places his/her own learning materials outside of a room, they may and will be stolen.

Solution:

Once again, change for the sake of change alone, is not consistent with other health boards in the state of CA or in chiropractic boards nationwide. The lack of clarity, necessity, and consistency are evident. **No regulatory change is warranted**.

Specific Technologies and Equipment

What does it mean that this regulation does not mandate the use of specific technologies or equipment? In what context is this statement? Does it apply to seminars? And if so, why would this statement be in there? This statement lacks clarity to all parties involved.

Solution:

No regulatory changes warranted.

371 Annual License Renewal #1 Completed the boards CE requirements that were in affect at the time for each year the license was expired.

This is a terrible law. A licensee who was not active in the state of CA for let's say 10 years. Would have to take 10 CE seminars in order to activate his license. This seems extremely prejudice against an inactive license. In order to activate an inactive license one should have to pay the proper fee to the state and be current with their license requirement for that year. To retro- actively go back 10, 15, or 25 years will not make the doctor any safer to the public and will put an incredible financial burden on one who wished to reactivate an inactive license. (Almost making it impossible.) What if one lives in another state who would like to move back to CA, that person would have to come here 25 different weekends with in the current year, in order to activate an inactive license. This law is not consistent with other boards in the state of CA or in other chiropractic boards nationwide.

Solution

This law needs to be changed from its current state and re-written without the prejudice and bias towards the inactive D.C.

Change in CE Course Application Form , CE Provider Application, and License Renewal Application.

There seems to be no reason, clarity, consistency, or necessity for a regulatory change in forms. Seems like change for the sake of change alone.

Solution:

No change of regulatory law warranted.. The current forms are just fine.

Conclusion:

I would first like to thank you for reading my letter. It has been very difficult to sit through the mish-mash of unorganized material that was sent to me to comment on. Many of the items in these proposed regulations were repeated 2,3 or even 4 times. I don't understand that at all. It was very confusing just reading through these drafts. In each of the drafts from June of 2009 to September 2010 it became more and more confusing to the reader. Section Numbers keep changing, once again clarity is severely lacking by the drafters of this document. This is my 5th response in the last 14 months of proposed regulatory changes. It is very clear to me that these proposed regulatory changes have absolutely no clarity. I feel sorry for D.C.'s and the citizens of the state of CA if they were to even begin to review all these drafts and try to make any sense out of this. Having taught CE seminars in CA for 15 straight years, I have personally witnessed a system that is working and is not broke. The puzzling contrived accusation that CE for chiropractic in this state is a broken system is simply not true. I have not heard of providers that have been removed or disciplined in any significant numbers over the last 15 years, so why should we suddenly now after all these years need to install new regulatory laws for provider removal. I have had tens of thousands of seminar evaluation questionnaires from my programs with less than a handful of negative comments. The system that I have been part of for the last 25 years, not only works, but I feel has been open, fair, and cutting edge in many respects to CA chiropractic CE. I do not understand the value in this proposed overhaul.

I feel the drafters have fallen far far short of presenting a legitimate problem in chiropractic CE. The board's failure to prove any clarity to all parties involved is evident and the lack of consistency with other health boards in CA and nationwide is also evident. The drafters of these proposed regulations have completely failed to prove any necessity that their proposed changes would solve any so called problems. I would hope that the board would allow input from providers in the field who have been teaching and administrating CE for the past 15 years to be part of the process to improve anything that might need improvement. I would also hope that the **OAL rejects this entire package** of proposed regulatory change the same way it rejected the July 23rd, 1996 attempt for a CE overhaul on the same basis of the board needing to demonstrate substantial evidence in the need for a regulatory change. Also, the problem with current regulations must be addressed and identified before a complete overhaul of an educational system is instituted. Also, one must present a case for how a new regulatory change would correct the problem of the old regulations. The drafters of these proposed regulatory changes have fallen far short of what is necessary for a regulatory law change. I hope that the wisdom and legal system of the OAL takes all public comment seriously and does the right thing in these proposals.

Yours in Health,

Mark Cymerint D.C.

Van Allen, Dixie@CHIRO

From: Dr. George Washington [drgeorgewashington@gmail.com]
Sent: Thursday, September 02, 2010 2:29 AM
To: Van Allen, Dixie@CHIRO
Subject: 24 hours license renewal?

Hi,
Please explain to me and the People of this State how increasing the CE for Chiropractic Doctors will benefit the People of this State.
Please explain to me and the People of this State how this increase will make better Chiropractic for the People of this State.
Please explain to me and the People of this State who everyone is that really benefits from this increase in CE.
Let's see! The Chiropractic Schools. The Chiropractic groups that will be putting on these additional course hours. The Board. And who else?
George W Gay

Van Allen, Dixie@CHIRO

From: MelvinShirer@aol.com
Sent: Thursday, September 02, 2010 9:32 AM
To: Van Allen, Dixie@CHIRO
Subject: Proposed changes to the Chiropractic Act

361.1- 16, #2 Courses that are taught by the department of industrial relations, division of workers compensation and courses approved by any healing arts or bureau shall be automatically approved by the chiropractic board

I oppose this proposed change in chiropractic license renewal. You exist to protect the public. How in the world does learning about, for example, dentistry, protect the public or enhance my knowledge of chiropractic? How does attending a full board meeting qualify for CE credits? This does not make sense to me that you would grant CE credits for attending a full board meeting where there is no actual chiropractic instruction going on. I have read through all your proposed changes and I object to every single one. I see no value in the changes you propose. It only sets up more bureaucracy and micro managing the profession of chiropractic.

Sincerely yours,

Melvin L. Shirer, D.C.

DC 19604

5995 Brockton Avenue, Suite C-1

Riverside, CA 92506

Office of the President

September 1, 2010

Dixie Van Allen, Policy Analyst
California Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
FAX: 916-263-5369
Dixie.vanallen@chiro.ca.gov

RE: The August 19, 2010 Proposed Modifications to Sections 360, 361, 362, 362.1, 364, 365, 366, 370, and 371 regarding Continuing Education Credits for Doctors of Chiropractic

Dear Ms. Van Allen:

In response to modified text we received from the August 8, 2010 posting regarding changes to the California Board's regulations governing Continuing Education, Palmer College of Chiropractic respectfully submits the following comments for thoughtful review by the Board for the 15 day comment period.

We are very much in favor of the Board's efforts to revise the current C.E. regulations. We strongly support the increase of C.E. hours from 12 to 24. We support the new description of allowable topics. We strongly support the newer educational delivery methods of online and other distance learning systems. All of these are important for the Board's overarching mission, to protect the health and safety of the public. We believe and agree with the Board that it has a fundamental duty and responsibility to oversee C.E. for the profession in California in partnership with CE Providers that are capable of providing high quality educational experiences for Doctors of Chiropractic. We are in total alignment on these points.

While the rest of this communication is critical of certain details in the proposed regulations, we do not wish to inappropriately prolong the frustrating process of rule-making that is required and necessary. With this in mind, please realize that we provide this commentary after considerable reflection under the assumption that intelligent individuals with overlapping organizational goals can arrive at workable solutions. Except for the areas described below, we are in general agreement with the content of the proposed regulations.

In the interest of brevity, we have considerably shortened our format compared to previous communications. We deal with each Section in order by describing the rationale for our concerns followed by recommendations. Thank you for the opportunity to participate in this important effort.

360. Continuing Education Fees

We cannot support the requirement to pay both Continuing Education Provider (and renewal) fees AND C.E. Course fees. To our knowledge no other state requires both. What is the reason for this redundancy that significantly increases the administrative burden and attendant costs for organizations to obtain C.E. approval?

Recommendation: Choose one method of approval or the other. If Provider applications are required, CE courses sponsored by the approved Provider should be automatically approved unless the topic does not fit within topic/subject matter regulations. If Course applications are required, Provider applications should be moot.

Recommendation: We support the FCLB PACE program for its potential to increase the quality and homogeneity of CE offerings for the profession on a national basis. For this reason, we encourage the Board to waive Provider and/or Course approvals and fees for PACE approved courses, as long as the topic is allowable under Section 361.

361. Continuing Education Requirements

We strongly object to the clause that allows eighteen (18) of the required 24 credits to be met by taking courses not subject to Board review and approval, e.g. The California Department of Industrial Relations, DWC, or any Healing Arts Board or Bureau within Division 2 of the Business and Professions Code, etc. Under the proposed language fully three-quarters of the annual C.E. requirement can be fulfilled by taking almost ANY course remotely related (or not?) to chiropractic, without Board oversight for quality or subject matter. In fact, it appears that the Board will not even monitor this behavior, as it has struck out this previously proposed language, "(c) The licensee will be required to submit proof of attendance, including date of course, location, and number of hours attended upon request." Furthermore, Section 366 states: "The Board shall conduct random audits to verify compliance with CE requirements of active licensees. Licensees shall secure and retain certificates of completion issued at the time of attendance of *approved* (emphasis added) C.E. courses for a period of four years...." This can be easily interpreted to mean that Division 2 courses are not subject to this regulation because by definition, they are not technically approved by the Board. With public safety in mind, this seems illogical on the face of it.

A possible unanticipated consequence of the proposed language is that it may drive chiropractic-oriented C.E. Providers to seek approvals from other boards rather than this

Board. Furthermore, it will dilute the already overcrowded chiropractic C.E. Provider market, making it even more difficult for C.E. Providers to recoup investments and direct costs for sponsoring C.E. programs. It is possible to imagine that this could drive some chiropractic organizations who have traditionally sponsored C.E. programs out of the California market altogether.

Nevertheless, in principle, we agree that courses from such non-reviewed-for-approval-by-the-Board sources are potentially valuable for Doctors of Chiropractic if they are taught at the appropriate doctorate level. However, the double-standard so evident throughout the proposed regulations with regard to those requiring Board approval versus those not is just not justified. We believe it much more important for DCs to maintain knowledge and skills in the core topics directly related to chiropractic practice.

Recommendation: Allow only up to six (6) hours of credit for non-Board reviewed and approved courses; and furthermore specify that only courses approved by healing boards or bureaus that license professional doctorate-level providers be allowed. The Board should reinstate a requirement for documentation of attendance of such courses if requested by the Board.

362. Continuing Education Provider Approval, Dutues, and Responsibilities

Again, we object to the requirement for applications and approval of BOTH C.E. Providers and each and every Course those Providers offer. A typical state board requires approval for Provider status (like MN and FL) which then waives individual course applications; or it requires individual course approvals. It is ironic that the CA Board appears willing to relinquish control with Division 2 providers but not with academicians in its own profession.

Recommendation: Choose one method of approval or the other.

Regarding **362.d.6.H**; Providers should not be required to delineate the 'mandatory' hours on attendance forms. Every state is different and rules change constantly. This language will create unwarranted administrative burdens as C.E. Providers will now need to custom-create a separate template for every program just for California. The onus should be on the attendee DC to know what topics are mandatory for their own states of licensure. The responsibility should be on the C.E. Provider to accurately reflect the topic taught, not whether it is mandatory or not.

Recommendation: Eliminate the phrase, "including the type of mandatory hours."

363. Approval of Continuing Education Courses

We are extremely opposed to the current language in **363.a.4** in two respects. First, the 2nd paragraph defines a "course" "as an approved program of coordinated instruction, in any *one* (emphasis added) of the subject areas as defined in Section 361(g) and given by an approved Provider." Practically speaking, this language would effectively prohibit multi-topic, multi-speaker research conferences such as the Association of Chiropractic

Colleges – Research Agenda Conference (ACC-RAC) from obtaining C.E. approval. Nor, would other cutting-edge conferences such as those sponsored by the World Federation of Chiropractic or state associations, the American Public Health Association, the North American Spine Society, etc. practically be able to obtain CE approval. For example at the 2010 ACC-RAC, 92 platform presentations (research papers), plus 60 poster presentations, plus approximately 25 breakout sessions, panel discussions and plenary presentations were part of the coordinated program. Except in a few cases, these presentations were all done by different speakers.

All of those presentations obviously would NOT cover only ONE topic allowed by this regulation, and thus could NOT be defined as a single "course." This leads to the ludicrous conclusion that even if all presentations were lumped as much as possible to match the allowable topics in the regulation, up to 14 different course applications might need to be submitted to be able to obtain CE approval for attendees. Why would the board want to drive away doctors from some of the most important and enlightening events in the profession?

In a more typical situation, a standard 12 hour CE seminar that covered the two "mandatory" topics for 2 and 4 hours respectively, and then another 6 hours in one other topic, would require the submission of three (3) separate course applications. This is excessive and unnecessary bureaucracy.

In summary, why would the Board wish to deal with up to 14 different course applications for a single large event? Why would CE Providers bother to submit up to 14 applications and pay 14 application fees? Finally, why would the Board now make it practically impossible to obtain C.E. approval for events that have received CE approval in the past from most states, including California.

Recommendation: Amend the "course" definition by omitting the word "one," so that the regulation reads as follows: "A "course" is defined as an approved program of coordinated instruction in any of the subject areas as defined in Section 361(g) and given by an approved Provider."

Secondly, it is excessively onerous to dictate the format and level of detail of information submitted on instructor CVs as required in **363.a.4**. This is unnecessary especially in regards to research conferences and similar events that have many invited and contributing presenters. In the case of a research conference, presentations have already been peer-reviewed for quality by the sponsoring organization. Responsible C.E. Providers are very conscious of the need to set and maintain high standards for C.E. instructors.

Recommendation: Require a "standard Curriculum Vitae" sufficient "to determine the instructor's knowledge and experience in the topic being proposed."

We object that class breaks are allowed at the discretion of the instructor in **363.c.2**. Class breaks should be at the discretion of the Provider. In most cases, the instructor will be contracted or employed by the Provider who holds the responsibility and legal liability

risk for the course. For example, college-sponsored CE courses must comply with all applicable state regulations.

Recommendation: Change the word "instructor" to "C.E. Provider."

363.1 Distance Learning Courses

For the types of distance learning that are not technically capable of providing an online timer of learning behavior it would be prudent to have learners submit a signed affidavit to the Provider that they have completed the work before the C.E. Provider submits an attendance certificate to them (eg. for manuals, compact disks, video, etc.)

Recommendation: Add subsection language to read: "C.E. Providers must provide learners with an affidavit to sign and return prior to issuing a CE certificate for distance learning activities that are not timed. Such activities may include but are not limited to: audio tapes, video, manuals, or CD's.

364. Exemptions and Reduction of Requirements

We request changes to **364.(a)(3)** regarding licensed D.C.'s who are serving CCE-accredited institutions in the capacity of faculty and/or administrators. All individuals employed by a college are involved in chiropractic education and learning activities that should be deemed acceptable by the Board. Furthermore, some faculty members teach elective courses (e.g. some adjustive techniques), and would be unfairly excluded by the "core" curriculum requirement. Finally, there is not a strong rationale to require one year of experience before allowing college personnel the exemption. College instructors and administrators are hired based on their experience and knowledge in the first place, and maintain their positions by demonstrating knowledge and teaching effectiveness.

Recommendation: Revise the language to read as follows: "CCE-accredited college faculty and/or administrators employed for more than eight (8) credit hours per week for at least six (6) months during any licensure year shall be exempt from continuing education requirements."

Question: In cases where a partial exemption is granted, does the exemption apply to the "mandatory" hours, the other hours, or both? Is the decision left to the individual?

Recommendation: Add language to clarify the question above.

366. Continuing Education Audits

We are concerned about this clause: "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." The board should certainly have the right to poll learners, but the board should clarify their intent to conduct such polls in a fair and objective manner to avoid bias and to identify the weight such surveys would have in any subsequent decisions regarding the course or C.E. Provider. It would be very easy for an attendee with a grudge to fabricate or exaggerate isolated problems.

Recommendation: Revise the language to read as follows: "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. Information obtained from attendees will be done using standard survey techniques in a fair, objective and transparent manner."

In summary, we wish again to emphasize that we support major changes to the existing C.E. regulations. We sincerely believe that our critical comments should lead to substantive improvements to the regulations that will benefit the partnership that is required to deliver high-quality Continuing Education programs in the state of California. We also sincerely hope that the Board interprets our critique in the same light.

Thank you very much for this opportunity to provide feedback. If you have any questions, please do not hesitate to contact us.

Very Best Regards,

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POBRAN CHIROPRACTIC CENTER
174 So. Rancho Santa Fe Rd. • San Marcos, CA 92069 • (760) 727-4488

DAVID H. POBRAN, D.C.

9.3.2010

Chiropractic Continuing Education Policy Analyst faxed to 916-263-5369

To Whom This May Concern:

I have been a licensed Chiropractor in California since 1976. It has been brought to my attention that the requirements are currently being one again re-considered to be extended to 24 hours, as opposed to 12, as it currently exists. I understand that it is in the interest of Public Safety to increase this requirement. This attempt and reasoning to increase our requirements has been considered in the past and it failed for good and obvious reasons.

I still see no valid reason for the increase now. I only can imagine what the motivation is to try to fix something that is not broken and I find it disturbing when these reasons come to my mind. Why place the chiropractic profession in an embarrassing position once again by having people outside of our profession, once again review this worthless proposal and reject it?

This would only benefit those who have a monopoly on the Re-licensure seminars and nobody else, certainly not the Citizens of California. And this is obvious to all concerned.

Please re-consider this exercise in futility.

Sincerely yours for better health and more choices,

David H. Pobran, D.C
DC11499

Van Allen, Dixie@CHIRO

From: rory [robrink@sbcglobal.net]
Sent: Thursday, September 02, 2010 1:38 PM
To: Van Allen, Dixie@CHIRO
Subject: Proposed Board changes

To: Board of Chiropractic

ATTN: Dixie Van Allen

2525 Natomas Park Dr. Ste 260

Sacramento, CA 95833

CC: Chiropractic Board Members & OAL, 300 Capitol Mall, Ste.1250, Sacramento, CA 95814-4339

Dear Dixie Van Allen, Chiropractic Board Members, & OAL Members,

I am responding to the most recent regulatory proposed changes, specifically those that propose to increase continuing education requirements. Having read previous Board meeting notes, it seems you feel increasing our continuing education hours will protect the public. It appears that a significant number of Board actions against practicing D.C.'s are due to insurance fraud and fronting for illicit massage parlors. I fail to see how increasing continuing education hours will prevent a D.C. intent on breaking the law, from doing so.

Sincerely,

Rory S. Brinkerhoff, D.C.

Van Allen, Dixie@CHIRO

From: Scott Dubrul [sdubrul@sbcglobal.net]
Sent: Thursday, September 02, 2010 2:22 PM
To: Van Allen, Dixie@CHIRO
Subject: Re; Changes in Chiropractic continuing education

I am writing to urge that no change be made in the realm of chiropractic continuing education at this time. We do not need more hours in our profession, seeing that little change has occurred in treatment over the last 100 plus years. Ours is a simple approach at it's roots. We have been taught in our education process how to address spinal dysfunction and other musculoskeletal issues and treatment has not changed.

Is there any big organization behind this change like Inner Calm Associates who stands to benefit from more continuing education being mandatory.

Please disclose all information as to why this change is needed.

Thank You

Scott A. Dubrul D.C.

INNERCALM ASSOCIATES
POST GRADUATE DEPARTMENT
(800) 551-0755

California Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Att: Dixie Van Allen
Sacramento, Ca. 95833-2931

September, 2010

Dear Ms. Van Allen,

This letter is in response to the Board's modification to the text of sections 361, 362, 363.1.
The following comments, questions and suggestions are cognisant of the thought, effort, vision of desire and proposed goals of the Board's new continuing education regulations for its chiropractic community.

We understand there will be additional readings and revisions of this draft. By doing so we suspect that the errors of language and misunderstanding, presently in the document will, most assuredly, be properly edited to reflect, not only the absolute intent but sentence clarity this document deserves.

We will start with <u>Intent:</u> 360. Continuing Education Fees, page 1

"The following represents fee for continuing education:
(a) Continuing Education Provider Application Fee: $75
(b) Biennial Continuing Education Provider Application Fee: $50
(c) Continuing Education Course Application Fee: $50 per course

These seem to be reasonable fees until you read, under 360.(h) that: "...education courses, <u>including distance learning,</u> that are approved by either of the following: (1) the California Department of Industrial Relations 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".

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INNERCALM ASSOCIATES
POST GRADUATE DEPARTMENT
(800) 551-0755

Not only do Division 2 et al, Boards receive a Fee Pass they also get an added bonus of by passing any BCE Continuing Education approval process.

Q: Are these Division 2, and other Boards' CEU courses so far superior and chiropractic scope focused, to those approved BCE Providers, such as our esteemed Chiropractic Colleges and Innercalm Associates which has been offering approved courses for over 18 years and audited several times during those years ?
We certainly understand that the Division 2 , et al boards can bring much to the CE table. But this Free Approval-Free Fee Pass for these Boards seems to smack at penalizing the BCE's very own worthy, faithful and, quite frankly, the educational backbone of its Continuing Educational program.

Suggestion: Since the BCE is providing a self approving path to the Division 2 Boards, et al, we believe the BCE should afford those BCE Providers, who have a proven record and longevity, (minimum of 10 years), with the Board, be granted self approval status. We have no quarrel with the suggested fee structure.
We urge the Board to amend their position on the present Draft.

Q: Should the Division 2, et al Boards have this Free Approval- Free Fee Pass bonus, does it also mean they are liberated from any chiropractor's CEU verification paperwork? If so here is our suggestion.

Suggestion: As a BCE Provider, as you know, we are required to maintain CE records for a period of four years. We receive calls from doctors, very often, requesting a copy of their CEU certificates to show proof to the BCE CE office. If there is no such requirement for the Division 2 et al Boards, especially through their Distance Learning system, then I wonder why BCE Providers should be held to a different standard? Will it not also be a hardship for the doctors who are audited to show proof of their CE to the BCE Continuing Education office?
Not to be flippant, but the old saying,: What's good for Goose is good For the Gander".

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361. Continuing Education Requirements.

361.(c) It reads: "For license renewals that expire on or after the implementation date a maximum of twelve (12) continuing education hours may be completed through distance learning as defined in Section 363.1..."
From the inception of the initial CE Regulation committee, convened by the former Executive Director and chaired by two of the Board members that the twenty four hours (24) of continuing education recommended would have certain required hours and optional hours. But that the sum total of **distance learning** hours would be no more than twelve (12) as stated above.

However, 361.(h) page 4 states: " With the exception of the mandatory courses specified in subdivision (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:....

Comment: We may have misread or misinterpreted the above, however I urge the correction of this to reflect only twelve hours (12) of Distance Learning be permitted. Otherwise, with the exception of Chiropractic Adjustive Technique, there really would be no reason not to permit all CE hours be acquired through Distance Learning. This needs clarification.

362.(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) Continuing Education Provider Approval...
"To apply to become an approved provider, an applicant shall complete and submit a "Continuing Education Provider Application" form...

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Applications for approval shall be submitted to the board office at least 30 days prior to a scheduled board meeting. Providers with applications that are incomplete will be notified of the deficiencies in writing within three (3) weeks from the date of receipt. Complete applications will be reviewed at the scheduled board meeting and notification of the board's decision will be provided in writing two (2) weeks following the board meeting".

Q: Are there no longer any written criteria to become a CE Provider, other than what appears in 362 (b) and (c)? For example, is there no longer a five (5) year period of teaching or providing courses in the continuing education field before applying to the BCE?
With no written criteria the Board exposes itself to any number of questionable future providers including felons, those with less than serious educational backgrounds, or no teaching experience at any level.

Comment: If we're not missing something, than this is a real head scratcher. The criteria, if they exist, needs to be stated in the final document. If there are no criteria being offered, at present, then the following are our recommendations:

1. Include the present BCE criteria for all new provider applicants including:

2. Show proof that the applicant has taken and successfully passed teaching courses from an accredited college or university.

3. A five (5) year period of teaching or providing courses in the continuing education field under the aegis of an approved BCE provider before applying to the BCE for a separate status.

Finally, the chiropractic profession, in spite of its great strides within its scope of practice, has provided outstanding service to the health of humanity around the world. Yet it continues to be assailed by many in the medical and other health care professions. In some of these quarters the profession is purposefully perceived to be under schooled.

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Let us not add to this misperception by allowing even the possibility of poor instruction or inferior curricula to seep into the continuing education of our doctors.

This Regulation document, with these and other suggested changes, can have a major positive impact not only on the future educational growth of the chiropractic community, but most importantly on the growing number of patients who know the true worth of chiropractic treatment.

Sincerely,
Lou Ringler, Ph.D.
President
Innercalm Associates
800-551-0755
Fax: 310-379-9509
Innercalm@mac.com

Federation of Chiropractic Licensing Boards

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Larry Spicer, D.C.

VIA E-mail: Dixie.vanallen@chiro.ca.gov

September 3, 2010

Dixie Van Allen, Policy Analyst
California Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833

Dear Ms. Allen,

Please find enclosed the comments by FCLB president Dr. Daniel Saint-Germain, on behalf of the Federation of Chiropractic Licensing Boards regarding the board's proposed modifications to the following:

California Code of Regulations
Title 16, Division 4
Articles 6 and 7.5: chiropractic continuing education and license renewal

We very much appreciate the opportunity to weigh in on this important document. Please do not hesitate to contact our offices should you need further information or clarification regarding the Federation's comments.

Sincerely yours,

Donna M. Liewer
Executive Director

Enclosure

cc: California Board of Chiropractic Examiners:
Frederick Lerner, D.C. , Chair
Hugh Lubkin, D.C., Vice Chair
Robert Puleo, Executive Officer

FCLB Board of Directors

FCLB is a non-profit 501(c)(3) corporation. Contributions are deductible as allowed under section 170 of the IRS Code.

Tax ID 54-0208564

The Federation of Chiropractic Licensing Boards (FCLB) hereby submits its comments on the changes proposed by the California Board of Chiropractic Examiners to the California Code of Regulations which pertain to the chiropractic license renewal and continuing education requirements.

Specifically, the FCLB will confine its comments to those areas which would benefit from further refinement in order to meet the six critical standards used by the Office of Administration Law to assess effective rulemaking, and most particularly the last four requirements in this list:

1. **Express and Implied Authority**
2. **Reference**
3. **Consistency**
4. **Clarity**
5. **Non-duplication**
6. **Necessity**

Since 1926, the Federation of Chiropractic Licensing Boards has served the government agencies that license and regulate doctors of chiropractic as the only nonprofit federation of these important public protection entities. Our members include all 51 US chiropractic regulatory boards, Virgin Islands, Puerto Rico, plus a number of similar agencies in Canada and Australia. Similar federations exist for the other licensed professions, and most, if not all, of California's health regulatory boards maintain regular membership in these important associations of government regulatory agencies. (Please note these are not professional associations; federations of regulatory boards like the FCLB are focused solely on public protection.)

From this perspective, we commend the California Board of Chiropractic Examiners for undertaking such a thorough update of the regulations affecting annual license renewals and continuing education requirements. In general, the proposed revisions are practical and timely. It would have been helpful, however, to publish a redline-~~strikeout~~ version of the proposed text which compares the actual current regulations to the proposed changes to be certain that they are fully transparent.

COMMENT 1

§361 Continuing Education Requirements (formerly §356) subdivision (c) enables a maximum of 12 CE hours to be taken by way of distance learning in accordance with §361.3. This logical provision is cost-effective for both CE providers and doctors of chiropractic, and allows for varied learning styles and overcomes geographic barriers for some licensees. Requiring that some CE hours are also gained in person (except in cases of demonstrated disability per the exemptions outlined in §364) ensures that doctors maintain healthy professional perspectives and relationships.

The proposed subject matter is diverse and allows doctors to seek particular CE hours in areas that have particular professional interest or application. Of particular note is the addition of education in proper and ethical billing and coding - topics of national interest in light of several federal reports from

the United States Office of the Inspector General which discuss the need for more education in this area.

This recommendation meets OAL requirements of consistency, non-duplication, and necessity.

COMMENT 2

§361 Continuing Education Requirements (formerly §356) subdivision (h) - The addition of "distance learning" in this subdivision may be confusing and in fact be better left to the single current reference in (c). The current proposal could cause the reader to misinterpret this section as allowing all of the remaining 18 hours to be taken as distance learning.

(~~b~~h) 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~~;~~:

This recommendation fails OAL requirements of clarity, consistency, and necessity.

COMMENT 3

§361 Continuing Education Requirements (formerly §356) subdivision (h) 1 and 2 propose to add two additional sources for chiropractic CE. Paragraph 1 refers to the Division of Workers Compensation and makes good sense to ensure that doctors of chiropractic clearly understand these program requirements. This recommendation meets OAL requirements of consistency and necessity.

However, the second proposal is troubling. As referenced, Division 2 of the Business and Professions Code encompasses three dozen professions. To allow 18 of the required 24 annual chiropractic CE hours to come from any of these 36 professions does not make sense. While we believe that the intention may have been to encourage cross-disciplinary learning, this may be better addressed by the proposed 16 broad topic areas under (g) of this same Section. Certainly any valid topics from other disciplines are already included in this excellent list. Further, board or PACE approval also ensures relevant and appropriate chiropractic oversight which would be abandoned under this current draft. The FCLB recommends that this wording be deleted:

~~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.~~

This recommendation fails OAL requirements of consistency, non-duplication, and necessity.

COMMENT 4

§362 Continuing Education Provider Approval, Duties, and Responsibilities (formerly §356.5) offers a definition of CE providers, and what is expected of them. While the section could benefit from some reorganization (it may be confusing to start with the denial and appeal process), our major concern is that the process does not recognize the FCLB's Providers of Approved Continuing

Education for Chiropractic ("PACE") program but per §361 (I) does allow courses approved by the PACE-type programs for other health care professions with no chiropractic board oversight. Further, §363 Approval of Continuing Education Courses should also refer to PACE.

PACE has been specifically developed over the past nine years at the request of the chiropractic licensing boards and the CE providers to reduce the duplicate workload for both groups. We do not believe that the California chiropractic colleges are opposed to amending these proposed regulations to allow for the cost-effective and rigorous PACE approval as an expeditious alternative to complement the existing path of direct board approval.

Many CE providers seek approval in more states than just California. It is costly and a waste of limited resources for boards to approve individual providers and courses for those programs that are offered in multiple jurisdictions. To that end, California representatives from both the board and chiropractic colleges based in this state have participated in designing the standards and procedures of the PACE program. In short, the chiropractic regulatory boards have built – and continue to administer – PACE.

The FCLB recommends that each chiropractic regulatory agency continue to adopt its own CE standards, and retain the ability of the board to approve independently those programs that may not be appropriate by nature of size or location to approve through the PACE program. However, we also recommend that those programs that comply with the rigorous PACE requirements receive expeditious and automatic approval, thus freeing both the board and the providers from duplicate work.

For the record, we note that none of California's current or proposed CE requirements are in conflict with the PACE requirements. PACE Recognized Providers would therefore be offering programs that comply with California regulations.

In order to include this cost-effective addition, we recommend that the board consider the following modifications to the proposed regulations:

§362 Continuing Education Provider Approval, Duties, and Responsibilities

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

(c)(1) To apply to become an approved provider, an applicant shall hold Recognized Provider status with the PACE program of the Federation of Chiropractic Licensing Boards or 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). Applications for approval shall be submitted to the board office at least 30 days prior to a scheduled board meeting. Providers with applications that are incomplete will be notified of the deficiencies in writing within three (3) weeks from the date of receipt. Complete applications will be reviewed at the scheduled board meeting and notification of the board's decision will be provided in writing within two (2) weeks following the board meeting. ~~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).~~

§363 Approval of Continuing Education Courses

(a) Providers that do not hold PACE Recognized Provider Status with the Federation of Chiropractic Licensing Boards must complete and submit a "Continuing Education Course Application" form (Revision date 02/10) which is hereby incorporated by reference, and pay the nonrefundable application fee as provided by ~~s~~Section 360© 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:

According to a survey conducted by the FCLB early in the development of the PACE program, the cost for each chiropractic college to comply with the varied and inconsistent application processes by the 51 US boards exceeds $5,000 per institution. By adopting a minor revision to the proposed regulations, the California Board of Chiropractic Examiners has the opportunity to reduce this economic burden for chiropractic colleges and private CE vendors both in California and across the United States.

Finally, national programs to evaluate continuing education for relicensure purposes under uniform standards are common for nearly every licensed profession. These programs are designed and administered by the regulatory boards that comprise the federations, in accordance with standards that best protect the public.

The California Code of Regulations [current through 8/20/10 Register 2010, No. 34] Title 16. Professional and Vocational Regulations contains specific language under each of the following professions that allows other "PACE-type" organizations to serve the board by approving CE providers, in accordance with standards established by the boards:

California licensed professions that allow PACE-type approval of CE programs			
Divison 13	Medical Board of California Chapter 1	Article 11	§ 1337
Division 13.1	Board of Psychology	Article 10	§ 1397.65
Division 13.2	Physical Therapy Board of California	Article 13	§ 1399.95 and § 1399.96
Division 13.6	Respiratory Care Board of California	Article 5	§ 1399.352
Division 13.8	Physician Assistant Examining Committee of the Medical Board of California	Article 8	§ 1399.616
Division 13.9	Board of Podiatric Medicine	Article 3	§ 1399.670
Division 15	State Board of Optometry	Article 6.5	§ 1536
Division 16	Osteopathic Medical Board of California	Article 9	§ 1639
Division 17	California State Board of Pharmacy	Article 4	§ 1732.05
Division 20	Veterinary Medical Board	Article 9	§ 2085.11
Division 31	State Board of Examiners of Nursing Home Administrators	Article 6	§ 3152
Division 39	Board of Occupational Therapy	Article 7	§ 4161

A board cannot abdicate its lawful responsibilities for CE approval. However, an informed board can study and participate in the processes of a centralized approval process, and if that process meets (or exceeds) the requirements established by the board, programs such as PACE may be permitted to serve the board by reducing its workload and associated costs.

Legal parallels and precedents exist in two other important areas:

1. **Accreditation** - Most boards still reserve the right and responsibility to approve professional colleges, but rely on the standards and processes of recognized accrediting agencies, provided the board is aware of those accrediting requirements and determines that they comply with jurisdictional law.
2. **Examination** - Most boards recognize the licensing examinations developed and administered by the professions' national testing agencies.

The ideal design is to allow hours approved by the national federation of regulatory boards, because the boards like California have a voice in the creation and administration of its policies. Regardless, in all cases, the board must be informed and satisfied that the standards and processes comply with all requirements established in the laws of its jurisdiction.

Adding the PACE program as an expeditious alternative meets OAL requirements as follows:

Consistency - Currently, 23 jurisdictions accept PACE's uniform, rigorous standards as one path to approving CE providers. Others are adding the necessary language to statutes and regulations when these areas are opened for possible amendment. Uniform CE standards assure licensing agencies that doctors seeking to relocate have maintained current skills and reduce their risk to the public. Also, the PACE *Criteria* and *Procedures* comply with California's current and proposed requirements, assuring that state law is consistently applied.

Clarity - the Federation offers examples of a plain English model statute and regulation to maintain the board's overarching authority for CE approval while permitting the use of the PACE program's established and consistent standards. Alternatively and by way of these comments, the FCLB has also proposed a specific, plain English amendment to the existing California proposed amendments.

Nonduplication - in this era of limited regulatory resources, regulatory boards should be much more focused on disciplinary issues than on the tedious and distracting process of reviewing CE providers and programs. Additionally, California-based CE providers should not be forced into an expensive and unwarranted process of completing similar applications for multiple jurisdictions on "pink forms" rather than "blue forms."

Necessity - PACE offers permanent electronic records retention for licensees' CE hours, a critical source of data for the boards. By combining regulatory board skills and resources, the in-depth PACE provider review process exceeds the quality and consistency that any one board can offer by itself.

COMMENT 5

§362 Continuing Education Provider Approval, Duties, and Responsibilities subdivisions (a), (e), (f) duplicate the appeal process. A single section delineating the appeal process would make regulations much easier to read and navigate.

This language fails the OAL requirements of clarity and non-duplication.

COMMENT 6

§363 Approval of Continuing Education Courses (formerly §357) (c) (2) - This new language specifically limits the form of taking attendance to a paper process. In this emerging world of electronic data management, other reliable methods are increasingly employed by CE providers. Rather than delineate with such specificity the form and content of the attendance sheet, perhaps broader language might be beneficial. It may also be helpful not to limit attendance monitoring to the beginning and end of the day. As drafted, this section fails the OAL requirements of clarity and necessity. We offer alternative language following the current draft:

As proposed:

(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.

FCLB alternative:

(2) Continuing education credit shall be based on a fifty (50) minute instruction hour. Breaks shall not count towards a course hour. Providers shall ensure that attendance is regularly and accurately monitored and that no credit is awarded to registrants for time not in attendance. Providers shall retain attendance records for at least four (4) years from the date of course completion and shall provide copies to the Board within thirty (30) days upon written request.

COMMENT 7

§363.1 Distance Learning Courses - the opening paragraph would benefit by the assignment of a number for reference. This paragraph should also address learning formats as a single topic (as opposed to the current wording which is presented as an opening clause in a complex statement.) The list is also somewhat unnecessarily detailed, making it difficult to add new electronic media that may represent mainstream learning formats in the future.

Additionally, the requirement in (a) to disclose instructors' curriculum vitae or resumes for distance learning seems confusing and potentially in conflict with §363 (a) (4) in which CVs are part of the general application process. Rather than outlining the required contents of an instructor's CV in the regulations, perhaps a better strategy would be to require that the instructor's qualifications for teaching this particular course be clearly identified in the application.

§363 Approval of Continuing Education Courses (a) Distance Learning Courses

(a) (4) [CE Course Apllication requirements]
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.

Description of the instructor qualifications to teach this course,inlcuding license status in all jurisdictions.

§363.1 Distance Learning Courses

In addition to the applicable requirements of Sections 362 and 363, Pproviders 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~~ and electronic media, shall meet all of the following:

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

These paragraphs fail OAL requirements for consistency, clarity, non-duplication, and necessity.

COMMENT 8

§364 Exemptions and Reduction of Requirement (formerly §358) (a) (2) represents a good attempt to clarify that those who have very recently been licensed do not have to register CE hours with the board. SInce chiropractic licenses in California are renewed annually on the last day of the birth month, it may be clearer to refer to the "period" rather than "year" of initial licensure:

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

This section fails the OAL requirement for clarity.

COMMENT 9

§364 Exemptions and Reduction of Requirement (formerly §358) (a) (6) refers to licensees who participate as examiners in the practical examination portion of the NBCE exams. We suggest deletion of the word "entire" as unnecessary and potentially difficult to administer. The requirements for CE credit are already well stated in the remaining language in this paragraph.

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.

This paragraph fails the OAL requirement for clarity.

COMMENT 10

§366 Continuing Education Audits (formerly §360). This section would benefit by numbering the paragraphs as subdivisions for clarity and consistency. The new paragraph that allows board members or designees of the board to attend an approved CE course at no charge for inspection purposes would benefit by adding language to ensure that no CE credits are awarded for such attendance unless appropriate fees are paid:

The board or its designee shall not be restricted from inspecting, observing, or auditing any approved chiropractic course in progress, at no charge. Continuing education credit shall only be awarded for such audits if appropriate fees are paid.

These paragraphs fail the OAL requirement for clarity.

COMMENT 11

§371 Annual License Renewals (formerly §355) (e) (2) and (g) (2) refer to practicing in another "state." Regulated jurisdictions in the United States include the District of Columbia, Puerto Rico, Virgin Islands, and Guam. It may be helpful to refer to "regulated jurisdictions" or even "US jurisdictions" depending on the intention of the board. With increasing worldwide mobility of doctors of chiropractic, the board may also wish to address the potential situations posed by those who practice in Canada or another country outside the US and then wish to return and restore their California license.

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

These paragraphs fail the OAL requirement for clarity.

COMMENT 12

§371 Annual License Renewals (formerly §355) (e) (3) and (g) (3) permit restoration of the license after forfeiture or cancellation by adding the option of passing the *Special Purposes Examination for Chiropractic* provided by the National Board of Chiropractic Examiners within six months of applying for restored status.

This examination was developed by request of the Federation nearly two decades ago, and has a long and distinguished history of providing reliable assessment of experienced practitioners. We note that the California board has allowed this exam traditionally for cases involving discipline and impairment.

Increasing the applications of SPEC by California by using it as one of several avenues to reinstate licenses to active status is consistent with the accepted and published purpose of the exam. Also, 32 other US boards currently authorize the use of the SPEC for reinstatement of lapsed licenses at the boards' discretion, with six other states considering SPEC for this purpose. Neighboring jurisdictions of Arizona, Oregon, Washington, and Nevada all currently use the SPEC for reinstatement purposes.

This recommendation meets the OAL requirements of consistency, non-duplication, and necessity.

Thank you for the opportunity to register these written comments regarding the proposed revisions. Clearly the California Board of Chiropractic Examiners has devoted significant and thoughtful effort to proposing such a comprehensive revision of the continuing education regulations, and is to be commended for excellent work. With the luxury of reviewing this ambitious document from the perspective of working with all of the US chiropractic regulatory boards as well as those from other countries for the past 84 years, we are pleased to share our experience. We hope that our suggestions are received in the helpful spirit in which they are intended.

The Federation would be happy to provide any additional information that may be of assistance as the review process continues.

Sincerely yours,

Daniel Saint-Germain, D.C.
FCLB President

cc: FCLB Board of Directors

DSTG/dml

Van Allen, Dixie@CHIRO

From: Ken Shipley [carrchiropractic110@yahoo.com]
Sent: Thursday, September 02, 2010 4:54 PM
To: Van Allen, Dixie@CHIRO

Dear Dixie Van Allen,

I am writting you to tell you how pleased that I have been with the level of instruction and the amount of valuable information that I have received at the Cymerint seminars these past years. I must tell you being in practice for 31 years I have been to a lot of seminars, the only others that I have experienced that rival Dr. Cymerint's seminars is Dan Murphy, D.C.

I would become so disinterested in the seminars put on by schools and the state associations in the past that each year when the requirement for continued education came up I would DREAD that weekend ! They are such a waste of valuable time that could be used instead to help patients the intent being good but the machine over the years has broken down. We are supposed to gain information in research and practice that is intended to help in practice to better serve our patients. accrued. Instead we always experience disorganized, poorly planned, and usually pompous people full of themselves, always with a gadget they developed or were marketing that is the do all end all for a doctors office.

I suppose what I am trying to say is just because a seminar is a longer duration doesn't necessarily assure that the information given is a superior quality it just means that it is longer.

I know that in these times everyone is looking for ways to increase revenue to specific interests. I can understand why a State agency would want to enhance the financial potentials for schools and State associations vs. private sector. But isn't the reason really supposed to be continuing education and not the good 'ol boy system ? I must say in all earnest candor that if you want doctors to have continued updated and current education annually then allow the private sector to compete. If not just let the field doctors mail the $ to the Board or the schools instead so that we don't have to waste time for this formality each year that in my estimation serves no educational value.

Sincerely
Joseph A. Carr, D.C.

Van Allen, Dixie@CHIRO

From: Kathy Warren [skwarren6@verizon.net]
Sent: Thursday, September 02, 2010 5:47 PM
To: Van Allen, Dixie@CHIRO
Subject: Clarity or Confusion for Chiropractic State Board Proposed Changes??

Importance: High

To: Board of Chiropractic

ATTN: Dixie Van Allen

2525 Natomas Park Dr. Ste 260

Sacramento, CA 95833

CC: Chiropractic Board Members & OAL, 300 Capitol Mall, Ste.1250, Sacramento, CA 95814-4339

Dear Dixie Van Allen, Chiropractic Board Members, & OAL Members,

I am responding to the most recent regulatory proposed changes. In 1996, the chiropractic board tried to overhaul and make changes to continuing education. The changes were overturned by the California Office of Administrative Law (OAL). The OAL found that the board did not have any clarity, consistency, or necessity for change. Therefore, they rejected the board recommendations for a permanent regulatory law change.

This current first 15 day comment period draft, is very confusing. The board believes that CE is a proactive approach that may prevent licensees from violating the board's laws and regulations. There have not been any studies or research done that would constitute the necessity for these changes nor is it consistent with other licensing boards not only in CA, but nationwide. The vagueness shows no clarity and is very confusing to the doctors in the state of CA, lecturers, providers, and the general public. The laws and regulations are available to all licensed chiropractors and the general public on the board website and have been available in hard copy as well. Thus making the laws, a mandatory subject category for continuing education would be equivalent to reading the laws to licensed doctors at a CE seminar.

361.1- 16, #2 Courses that are taught by the department of industrial relations, division of workers compensation and courses approved by any healing arts or bureau shall be automatically approved by the chiropractic board

First, it is surprising that this board would automatically approve courses from other boards in CA which may or may not have followed the requirements for chiropractic CE set out by this board. How could this possibly protect the citizens of CA? For what reason would a seminar by a dentist, or licensed hair dresser, qualify for automatic approval by this board? It absolutely makes no sense. The courses approved by other boards have followed the guidelines of their own boards, not the chiropractic criteria. I would like to ask the OAL how does this make the citizens of CA safer from chiropractors? The board is claiming that public safety is their main issue, I highly doubt that based on this proposal.

No other board in the state of CA has reciprocity with chiropractic CE courses. We would have to apply and be under the same guidelines and regulations that are set up by those individual boards in order to get board approval for our chiropractic CE course. Therefore it is unclear why our board would want to allow other programs from other professions ex... dentistry, medicine, podiatry, which is all out of our scope of practice to be included automatically in a chiropractic CE seminar. There is no clarity, necessity, and consistency at all to this proposed regulatory change. This would also open up a can of worms for chiropractors who attend another board CE seminar could therefore claim that they were taught and certified to perform techniques that are outside of the chiropractic scope of practice. This is not only insane, but is actually a dangerous idea for the safety of the citizens of the state of CA.

In regard the proposal of attending a full board meeting will give a licensee CE hours, my question would be how does this enhance ones knowledge of current medical conditions, protect the citizens of CA, and why would this be allowed for CE credits?

Solution:

All courses of chiropractic CE must be submitted by an approved chiropractic provider and follow all current guidelines and regulations of the chiropractic board. Unless all chiropractic CE courses are uniformly accepted for CE approval automatically by all other healthcare boards in CA then the chiropractic board should absolutely not grant the automatic approval of other approved licensing board seminars without those seminars following the guidelines that are set up in these proposed regulations. Why is this board holding chiropractic CE to a different set of standards and requirements that are not being held up in other licensing boards in the state. This seems biased and prejudice. In regards to the increase in hours to 24, comparing us to physicians, surgeons, dentist's is not a valid argument in the fact that our chiropractic profession does not change drastically from year to year to warrant an increase in hours. This proposal needs to be carefully drafted with proof and not changed just for the sake of change alone.

Thank you for your attention in re-considering some necessary changes to the re-education proposals.

Regards,

Steven Warren, DC

Kathy Warren, DC

Huntington Beach, CA

CALIFORNIA CHIROPRACTIC [illegible] CENTERS
Dr. Robert E. [illegible] D.C.

CONFIDENTIAL FAX COVER SHEET

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Date: 9/2/10 No. of Pages: 2 Inc'l cover

RECIPIENT

Name: DIXIE VAN ALLEN

Company: CHIROPRACTIC BOARD OF EXAMINERS

Fax Number: (916) 263-5369 Voice Number: ( )

SENDER

Name: DR ROBERT SCHREIVER D.C.

Fax Number: (831) 759-2243 Voice Number: (831) 759-0858

Regarding: PROPOSED CHANGES

Fax Number Verified: [illegible]

CALIFORNIA CHIROPRACTIC AND WELLNESS CENTER

47 East Ronnie Lane
Salinas, CA 93901
Telephone: 831.759.0858
Fax: 831.758.2243

September 2, 2010

Board of Chiropractic
Attn: Dixie Van Allen
2525 Natomas Park Dr. Ste 260
Sacramento, CA 95833

Dear Ms Allen and Board Members,

I am writing to voice my objection to the proposed changes in the continuing educational requirements. Because I was made aware of these changes 1 day before the deadline to object I will be limited what I can object to. The entire proposed changes appear to be flawed. Example, continuing education from 12 to 24 hours? Why the change? I do not understand how this will benefit anyone other than the limited few that will now be able to provide C.E. seminars. It is my understanding that no other regulating boards have these policies. Again, because of limited time to respond, I would respectfully provide my opinion opposed to the new changes as outlined. Why not keep the current system which does not appear to be broken? Thank you.

Respectfully Submitted,

Dr. Robert R. Schreiner, D.C.

September 3, 2010
To: Board of Chiropractic
ATTN: Dixie Van Allen
2525 Natomas Park Dr. Ste 260
Sacramento, CA 95833
CC: Chiropractic Board Members & OAL, 300 Capitol Mall, Ste.1250, Sacramento, CA 95814-4339

Dear Dixie Van Allen, Chiropractic Board Members, & OAL Members,

I am writing you regarding the most recent regulatory proposed changes. This is my second letter to you regarding this subject. I must be more brief in this letter as such a short response time has been given this time around.

In general, I would like to state that I am opposed to the currently proposed regulatory changes. It is my opinion that the proposed changes have no valid, evidence based reasoning behind them. I have selected a few proposed changes that I find particularly troubling to address specifically in this letter, but you must understand that these are hardly all of my concerns.

Section 361, raising the continuing education hours, does not seem warranted. There is no evidence to show that more hours will make us better practitioners. We provide a safe, non-invasive form of healthcare, and the manner in which we care for our patients does not change significantly from year to year as we do not prescribe pharmaceuticals or do any invasive procedures such as surgery.

Furthermore, I find the proposed mandatory subject matter such as history taking and physical examination, etc. insulting and not what I would call "continuing" education. I spent seven years of my life in university and chiropractic college studying: I learned the basics, I demonstrated to my college I was capable of performing basic doctoring skills, I proved to the National Board of Chiropractic Examiners I was capable of performing basic doctoring skills, and I proved to the California State Board of Chiropractic Examiners I was knowledgeable of California State Law, and I've been applying these skills and regulations five days a week ever since – I don't need to be reminded how to do my job. And it is "re-education" material, not "continuing education" material as far as I'm concerned. I realize there are likely some of my colleagues who do not perform their duties to an acceptable standard and may break laws, but I doubt these individuals will return to their offices after the seminar and make drastic changes to their practice style. I want to see the research that shows this type of repetitive learning will get results before you impose these requirements on all of us. I do believe, however, that when there are changes to laws and regulations, the changes should be announced in seminars for the year after to ensure everyone's awareness.

I am also concerned with distance learning, proposed in section 363.1. Though this type of continuing education would be convenient, I do not know that it would be in the best interest of the public. Many of the other proposed changes are supposed to be aiming to ensure public safety by making us better practitioners, but I don't know that distance learning is the way to do this. It is not thorough, and my personal experience with online classes is that they are easily completed without really engaging in the material and can be completed in less than the allotted time. This is just going to allow the incompetent practitioners to continue to below the bar. Plus, we're in a hands-on profession and hands-on learning seems more beneficial to us. I think the Board needs to look into how this type of learning would be organized and regulated before making it available to us.

I think section 356.5 #4, which will forbid the marketing or display of materials for sale at the seminar within the classroom is just silly and impractical. Many seminars have materials for sale and some of these materials are directly related to the course material which the practitioner has specifically come to the seminar to learn more about. We are trying to continue our education so we can improve our practices and provide our patients with the latest technology and systems to maximize their experience and results with chiropractic care. To ask the seminar provider to not display the material

or market it pretty much makes so they cannot present their products or materials at all. As far as placing the items outside the room, it is not a reasonable request. Surely the Board is aware that the majority of seminars take place in a rented conference or ball room at a hotel. You are basically asking the seminar providers to increase their expense by renting a second room (which would ultimately pass the increased price on to attending practitioners), or risk the loss of their products by placing it out in a public hallway.

As I've said, there are a number of other issues I'd like to address, but on such short notice, I do not have the time to elaborate on every one. I hope the OAP will consider my objections and those of many of my colleagues who I know have voiced their objection as well. This revamp of chiropractic continuing education in California seems unnecessary, unjustified, and inconsistent with the requirements of our counterparts throughout the rest of the country.

Thank you for your time and consideration of my letter.

Sincerely,

Jennifer Price, DC

Jennifer Price, DC
333 N Screenland Dr #342
Burbank CA 91505

September 3, 2010

Dixie Van Allen
Board of Chiropractic Examiners
2525 Natomas Park Dr. Suite 260
Sacramento, Ca 95833
FAX 916 263-5369

CC: Chiropractic Board Members & OAL Members

I object to the Boards proposed changes to increase the Continuing Education hours to 24 from the current 12 hours per calendar years. I do not see the wisdom in this nor have been made aware of any studies showing the benefits to the public with this increase. Chiropractic does not deal with medications and or surgery and thus does not need the increased studies to stay current such as health care providers like MD's, DO's and or DDS' s do.

I also object to letting chiropractors take other professional continuing education course that our approved by other boards. This would be a disaster to the chiropractic community and also put the public in harm's way. I know of no studies that suggest that this is a good for public safety.

Thank you for allowing me to voice my concerns. Please keep me posted to any updates regarding the current issues at hand.

Dr. Michael C Karr, DC
11340 Olympic Blvd., Suite 165
LA, CA 90064

Alfred W. Garbutt III, D.C., Inc.
Doctor of Chiropractic
Fellow Academy of Forensic and Industrial Chiropractic Consultants
Fellow American College of Chiropractic Rehabilitation Science
Diplomate American Chiropractic Rehabilitation Board
Diplomate American Academy of Pain Management
Diplomate Chiropractic Board of Clinical Nutrition
Diplomate American Board of Disability Analysts
Diplomate American Clinical Board of Nutrition
Certified Industrial Disability Evaluator

3810 La Crescenta Ave, La Crescenta, CA 91214
818- 248-5570 fax 818-248-5510

09/02/10

Dixie Van Allen
Policy Analyst
California Board of Chiropractic Examiners
Fax 916-263-5369

Dear Ms. Van Allen and the California Board of Chiropractic Examiners;

I am writing you in response to the Boards proposed Continuing Education changes. As one can see from the above letterhead I am a big believer in further education and it is not uncommon for me to attend 50 hours or more per year in further education. I am, however, concerned that the Board may be proposing changes that will not directly address the real problem of licensees violating regulations and create a burden for the majority because of the minority.

I recently read a copy of the most recent letter submitted to you by Dr. Mark Cymerint. I have to say that I basically agree with what he has to say.

I believe that the Board needs to more specifically investigate and identify "why" the small number of people are violating regulations and then address those issues in a precise manner without penalizing the honest practitioners.

Respectfully,

Alfred W. Garbutt, III, D.C.

To: Board of Chiropractic

ATTN: Dixie Van Allen **fax:** 916-263-5369

2525 Natomas Park Dr. Ste 260
Sacramento, CA 95833

From: Christian **Bartels, D.C.** **License #18319**
15522 Linda Avenue
Los Gatos, CA 95032

Dear Dixie Van Allen and Chiropractic Board Members Members,

The most recent regulatory proposed changes that of September 1st, 2010 remind me when this board in 1996, tried to make changes to continuing education that were overturned by the California Office of Administrative Law (OAL). The OAL found that the board did not have any clarity, consistency, or necessity for change. They, therefore, rejected the board recommendations for a permanent regulatory law change.

361.1- 16, #2 Courses that are taught by the department of industrial relations, division of workers compensation and courses approved by any healing arts or bureau shall be automatically approved by the chiropractic board

First of all it is absolutely beyond belief that this board would automatically approve courses from other boards in CA which may or may not have followed the requirements for chiropractic CE set out by this board. **How could this possibly protect the citizens of CA?** For what reason would a seminar by a dentist, or licensed hair dresser, qualify for automatic approval by this board? It absolutely makes no sense. The courses approved by other boards have followed the guidelines of their own boards, not the chiropractic criteria. I would like to ask the OAL how does this make the citizens of CA safer from chiropractors? The board is claiming that public safety is their main issue, I highly doubt that based on this proposal.

No other board in the state of CA has reciprocity with chiropractic CE courses. We would have to apply and be under the same guidelines and regulations that are set up by those individual boards in order to get board approval for our chiropractic CE course. Therefore it is unclear why our board would want to allow other programs from other professions ex… dentistry, medicine, podiatry, which is all out of our scope of practice to be included automatically in a chiropractic CE seminar. There is no clarity, necessity, and consistency at all to this proposed regulatory change. This would also open up a can of worms for chiropractors who attend another board CE seminar could therefore claim that they were taught and certified to perform techniques that are outside of the chiropractic scope of practice. This is not only insane, but is actually a dangerous idea for the safety of the citizens of the state of CA.

In regard the proposal of attending a full board meeting will give a licensee CE hours, my question would be how does this enhance ones knowledge of current medical conditions, protect the citizens of CA, and why would this be allowed for CE credits?

Solution:

All courses of chiropractic CE must be submitted by an approved chiropractic provider and follow all current guidelines and regulations of the chiropractic board. Unless all chiropractic CE courses are uniformly accepted for CE approval automatically by all other healthcare boards in CA then the chiropractic board should absolutely not grant the automatic approval of other approved licensing board seminars without those seminars following the guidelines that are set up in these proposed regulations. Why is this board holding chiropractic CE to a different set of standards and requirements that are not being held up in other licensing boards in the state. This seems biased and prejudice. In regards to the increase in hours to 24, comparing us to physicians, surgeons, dentist's is not a valid argument in the fact that our chiropractic profession does not change drastically

LIFE CHIROPRACTIC COLLEGE WEST
25001 Industrial Blvd
Hayward, CA 94545
510 780 4500

In Re: BOARD OF CHIROPRATIC EXAMINERS REGULATORY ACTION: California Code of Regulations Title 16, Division 4, Articles 6 and 7.5	COMMENTS BY LIFE CHIROPRACTIC COLLEGE WEST ON PROPOSED REGULATORY ACTION FIRST 15 DAY COMMENT PERIOD

Life Chiropractic College West ("Life West") herein offers its comments on the regulatory action proposed by the California Board of Chiropractic Examiners ("Board") to adopt, amend and repeal sections of the California Code of Regulations addressing chiropractic license renewal and continuing education requirements:

SECTION 360

Comment 1: *Section 360 Continuing Education Fees*

In its comments during the 45 day comment period, Life West stated as follows:

> If the board has performed a cost analysis that supports the proposed fees, that documentation should have been identified in the ISR.
>
> [Comments by Life Chiropractic College West on Proposed Regulatory Action, 24 May 2010, page 7, Comment 17.]

The board's response at its 29 July 2010 meeting was:

> Staff Suggested Response: Staff rejects this comment as *no such study was conducted*.
>
> [Review of Written Comments Received During the 45 Day Comment Period Continuing Education Proposed Regulations, from 29 July 2010 Board meeting materials, page 34, section q.]

However, Minutes from the Board's October 22, 2009 meeting state that such a cost analysis *does* exist:

> Comment 36: Paul Powers, D.C. raised concerns that the accountability in learning..... In addition, the application fee for CE providers is high and inconsistent with other states. Dr. Powers recommend [sic] that the fee be set at $25 and provided suggested language for the Board to consider.
>
> Response: 1) Comment has already been addressed.
> 2) The fees are not based on other states fees, a *cost analysis was conducted*.
>
> [Board of Chiropractic Examiners Public Meeting Minutes, 22 October 2009, page 10.]

The cost analysis that purportedly existed on 22 October 2009 should be included in the rulemaking file to support the fees proposed in the current regulatory proceeding.

SECTION 361

Comment 2: *Section 361(a) Continuing Education Requirements*

This subsection defines "implementation date" for purposes of Article 6 and 7.5. The term is not used in Article 7.5 and reference to that Article should be stricken.

Comment 3: *Section 361(a) Continuing Education Requirements*

Life West understands that the board intends for licensees to comply with the new 24-hour CE requirements two years *after* the effective date. However, the regulation states "...'implementation date' means two years *following* [insert effective date]." The word "following" means coming next in time or order. Hence, the regulation would only be implemented for the 2 years following the effective date and would sunset thereafter. The word "following" should be replaced with "after."

Comment 4: *Sections 361(b) and (c) Continuing Education Requirements*

The language refers to "license *renewals* that expire." The term "renewal" means "to make new or as if new again" and a licensee renews a license that is nearing expiration. While the board might argue that a "license renewal" expires, this would not address the first-year license as it nears its first expiration and renewal cycle. Life West suggests the board change the language to read" "For licenses ~~renewals~~ that expire on or after....."

Comment 5: *Sections 361(b) and (c) Continuing Education Requirements*

These subsections requires licensees to complete either 12 hours or 24 hours of continuing education, but does not specify the time frame to complete the training. Without some indication that this is an annual requirement, licensees might assume that this is a once in a lifetime requirement. The prior language [contained in § 356(a)] provided that licensees "complete a minimum of twelve (12) hours per licensing year."

Comment 6: *Sections 361(d) Continuing Education Requirements*

The regulations, as currently drafted, create a 45 day gap where no board approved continuing education courses will be available to licensees. Thirty days after filing of these regulations with the Secretary of State, the new requirements and forms for approval of continuing education courses will go into effect. Courses previously approved under the old regulations will need to be resubmitted for approval under the new scheme. Although the board may receive a new Continuing Education Course Application prior to the effective date, the form does not become valid until the effective date. The first new applications could only be accepted and considered on the effective date, and the earliest possible date for an approved course under the new regulations will be 45 days after the effective date. While subsection 361(d) attempts to fill the course approval gap between the old and new regulations, it is insufficient as it only provides that "continuing education hours *accumulated before [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 renewal." The board must make some provision for licensees caught in the gap between the old and new requirements.

Comment 7: *Sections 361(e) Continuing Education Requirements*

Here the board requires that "*On or after the implementation date*, licensees shall complete....." Hypothetically, if the regulations are filed in January 2011, the implementation date will be in February 2013. As currently written, licensees would not be required to *start* earning any mandatory hours until two years (and 30 days) after filing of the regulations.

Comment 8: *Sections 361(e) Continuing Education Requirements*

It appears that licensees need only earn the mandatory hours one time as the language does not address how often chiropractors must complete this training.

Comment 9: *Sections 361(e) Continuing Education Requirements*

At the board's meeting of October 22, 2009, the board agreed that the subsections of mandatory training should be sequentially numbered for clarity. The meeting minutes reflect that:

> Section 356 [now renumbered to 361] will be modified to put all the mandatory stuff in the beginning for clarity.
>
> [Board of Chiropractic Examiners Public Meeting Minutes, 22 October 2009, page 18, response 7.]

The board has now, however, adopted the position that the language is perfectly clear. In response to the California Chiropractic Association's suggestion that the mandatory topics be renumbered for clarity, the board responded:

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.

[Review of Written Comments Received During the 45 Day Comment Period Continuing Education Proposed Regulations, from 29 July 2010 Board meeting materials, page 23, section d.]

Comment 10: *Sections 361(f) Continuing Education Requirements*

This subsection addresses the *remaining* eighteen (18) hours of *additional* continuing education requirements. "Remaining" means a total reduced by some quantity. "Additional" means some quantity plus another quantity. The two terms should not be used together and "additional" should be stricken.

Comment 11: *Sections 361(f) Continuing Education Requirements*

Life West asserts that if this subsection were clearly written, in simple English that could be clearly understood by the parties directly affected, there would be no need to provide an example.

Comment 12: *Sections 361(f) Continuing Education Requirements*

The "example" proffered by the board in the regulatory language may lead licensees to believe they *must* select eight hours of board approved courses and ten hours of courses offered through the Department of Industrial Relations.

Comment 13: *Sections 361(g) Continuing Education Requirements*

This subsection now states that "Courses approved by the board *shall be limited to* the following subject areas." The sixteen items that follow were never intended to list *every* single topic that might be approved now or in the future. As it reads now, if a subject is not on the list, it will be denied.

Comment 14: *Sections 361(g) Continuing Education Requirements*

Subsection (g) states that topics *shall be limited to* the following subject areas. Subsections (6), (9) and (11) of subsection (g) then provide lists of subjects "including, *but not limited to*…." The phrase "shall be limited to" should be stricken.

Comment 15: *Sections 361(g)(14) Continuing Education Requirements*

By placing subsection (14) within subsection (g), it requires that a course in CPR be approved by the board for a licensee to receive credit. This item should be moved to a new subsection (j).

Comment 16: *Sections 361(g) Continuing Education Requirements*

Subsection 361(g)(15), credit for attending a chiropractic board meeting, does not belong with "courses approved by the board" as it is not a "course" as defined in § 363. This item should be moved to a new subsection (k).

Comment 17: *Sections 361(h) Continuing Education Requirements*

This subsection now provides:

> With the exception of the mandatory courses specified in subdivision (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....

The addition of the phrase "including distance learning" may confuse licensees and lead them to believe they make take *all 18 hours* of non-mandatory courses through distance learning offered by the Department of Industrial Relations or any other Healing Arts Board.

SECTION 362

Comment 18: *Sections 362(c) Continuing Education Provider Approval, Duties and Responsibilities*

Language has been inserted that requires a provider application be submitted 30 days prior to a scheduled board meeting and states that the application will be reviewed by the board. If the board is reviewing and approving applications at its meetings, there is no need for the appeal process delineated in subsection (a).

Comment 19: *Sections 362(d)(2) and (6) Continuing Education Provider Approval, Duties and Responsibilities*

The board has stricken the first sentence of subsection 362(d)(2) which clearly delineated what record keeping was expected of the sponsors:

> 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.

In its place, the board has inserted two other record-keeping provisions:

> (2) Providers shall maintain the *course roster* for four (4) years from the date of course completion
>
> (6) 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.

"Attendance records" as provided in the previous language, would encompass electronic records contained in a provider's database. The course roster specified in subsection (2) is a report with specific data generated from the database. The "records of course completion" specified in subsection (6) are certificates of completion, also generated from the electronic records. There is no reason for the board to

require sponsors to generate and retain more paperwork than is necessary. The provision that providers "retain attendance records for four (4) years from the date of course completion" is sufficient and should be restored to the regulation. If the board needs a "course roster" or "records of course completion" those documents can be generated at that time.

Comment 20: *Sections 362(d)(3) Continuing Education Provider Approval, Duties and Responsibilities*

The board requires sponsors to maintain course instructor curriculum vitae for four years, but there is no requirement to maintain records of what was taught in the course. This is important information that should be maintained by the sponsors.

Comment 21: *Sections 362(d)(2), (3) and (6) Continuing Education Provider Approval, Duties and Responsibilities*

Rather than listing what documents the board wishes providers to maintain in three separate subsections (Subsections 2, 3 and 6), the record keeping provisions should be placed in one subsection.

SECTION 363

Comment 22: *Sections 363(a)(1) and (2) Approval of Continuing Education Courses.*

It appears that subsections (1) and (2) are requesting the same information in two separate documents. The information requested in subsection (1) an "*hourly breakdown* of the continuing education course" would also be contained in the document requested in subsection (2), "a final copy of the *syllabus/course schedule*".

Comment 23: *Sections 363(a)(4) Approval of Continuing Education Courses.*

This laundry list of what must be included in an instructor's curriculum vitae was previously incorporated in proposed revisions to the Continuing Education Course Application. Life West objected to its inclusion on the grounds that there was no rationale set forth to require such specific information. The board's response was that the "request for this information is standard practice which is currently in place." [Review of Written Comments Received During the 45 Day Comment Period Continuing Education Proposed Regulations, from 29 July 2010 Board meeting materials, page 46, section ci.]

Such a 'standard' is a 'regulation' as defined in the Government Code:

> § 11342.600. "Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

While it is laudable that the chiropractic board is bringing this underground regulation into the light of day [it currently exists as Appendix B to the instructions accompanying the application for continuing education course approval], the board is not excused from the requirements of the Administrative Procedures Act because something has become a "standard practice". This regulation must meet the Necessity standard of the APA and the board should amend its Initial Statement of Reasons to set forth the specific purpose and rationale for adopting each requirement of this subsection.

Comment 24: *Sections 363(a)(4) Approval of Continuing Education Courses.*

Here the board has limited a 'course' to "any ***one*** of the subject areas as defined in Section 361(g)." Under this provision, a program offering 12 hours of training which included two hours education in 'Mandatory' Ethics and Law, four of the 'Other Mandatory' hours, and six 'General' hours (one subject from subsections 1-16) would require three separate course applications. This multiplies the paperwork for the provider and disrupts learning, as the program of instruction must break for participants to sign the "'sign-in sheet' at the start and conclusion" of each offering. Providers would be required to maintain 3 separate files with attendance records and to issue attendees 3 separate certificates of completion. There is no rationale offered for restricting a course to only one subject and this requirement should be removed.

Comment 25: *Sections 363(c)(2) Approval of Continuing Education Courses.*

In addition to the course record-keeping requirements of section 362(d)(2) and (6), this subsection requires that "Providers shall retain sign-in sheets for four (4) years from the date of course completion …." If the board wants to specify exactly what documents providers must keep in their files, it should list them all in one place for clarity. The appropriate place to mandate providers' record keeping is in Section 362 – Continuing Education Provider Approval, Duties and Responsibilities.

SECTION 370

Comment 26: *Sections 370(a) License Renewal Fees.*

If Assembly Bill 1996 is signed by the Governor, this fee will change to $250. The regulation should be revised to reflect either the changed dollar amount or reference the appropriate statute.

CONTINUING EDUCATION COURSE APPLICATION

Comment 27: *Course Title/Topics and Hours*

The regulations create two types of "Mandatory" hours.

(1) Mandatory: Two hours in Ethics and Law (Section 361(g)(11)); and

(2) Other Mandatory: Four hours chosen at will by the licensee in any of the following:

a. History Taking and Physical Examination Procedures (Section 361(g)(3));

b. Chiropractic Adjustive Techniques or Chiropractic Manipulative Techniques (Section 361(g)(5)); or

c. Proper and Ethical Billing and Coding (Section 361(g)(10))

Part A of this section of the Course Application form should be amended to reflect the two types of Mandatory hours for proper classification of the credit hours.

Comment 28: *Course Title/Topics and Hours*

It is unclear why there is a Section C for "Other" hours as courses approved by the board are limited to the sixteen topics enumerated under section 363(g).

Comment 29: *Sample Certificate*

The attendance certificate should also be amended to reflect the two types of Mandatory hours that must be earned and reported to the board.

Respectfully submitted this 3rd day of September 2010

LIFE CHIROPRACTIC COLLEGE WEST

By _____
Gerard W. Clum, DC
President

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Modified Proposed Regulatory Language for Continuing Education & Annual License Renewals

Board of Chiropractic Examiners
Modified Proposed Regulatory Language for
Continuing Education & Annual License Renewals
California Code of Regulations, Title 16, Division 4, Articles 6 and 7.5
(1st 15-day Comment Period)

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 the 1st 15-day comment period, 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 are available on the Board's website at http://www.chiro.ca.gov/business/rulemaking.html and are 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 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 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~~ subdivision (g)(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~~ subdivision(g)(3) – History Taking and Physical Examination Procedures, ~~subparagraph~~ subdivision (g)(5) – Chiropractic Adjustive Techniques or Chiropractic Manipulation Techniques, or ~~subparagraph~~ subdivision(g)(10) – Proper and Ethical Billing and Coding~~,~~.

(f) With the exception of the mandatory hours referenced in subdivision (e), the remaining ~~and~~ eighteen (18) hours of additional continuing education ~~courses~~ requirements may be met by taking courses in any of the ~~following~~ subject areas ~~matters~~ listed in subdivision (g) or courses taken pursuant to subdivision (h). The eighteen (18) hours may include any combination of continuing education courses in subject areas specified in either subdivision (g) or approved by agencies specified in subdivision (h). By way of example, a licensee may take eight (8) hours of continuing education courses in subject areas listed in subdivision (g), that are approved by the board, and ten (10) hours of continuing education courses that are approved by the California Department of Industrial Relations, Division of Workers Compensation pursuant to subparagraph (1) of subdivision (h).

(g) Courses approved by the board shall be limited to the following subject areas:

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 techniques 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~~h) 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~~i) The continuing education providers and courses referenced in ~~this~~ subdivision (h) do not need to be approved by the Board for credit to be granted nor do they need to meet the requirements contained in Sections 362, 363, and 363.1.

§ 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 ~~s~~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). Applications for approval shall be submitted to the board office at least 30 days prior to a scheduled board meeting. Providers with applications that are incomplete will be notified of the deficiencies in writing within three (3) weeks from the date of receipt. Complete applications will be reviewed at the scheduled board meeting and notification of the board's decision will be provided in writing within two (2) weeks following the board meeting. ~~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) 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) Printed name and signature of the provider's designated representative

(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~~e) 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, disclosure of expenses underwritten or subsidized by vendors of any goods, and 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(g) 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) Notwithstanding Section 361(c), ~~A~~ 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~~ defined 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) Notwithstanding Section 361(c), a ~~L~~licensee~~s~~ 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~~ defined in ~~S~~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 secure and 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 ~~s~~Section ~~363(b)~~ 362(e), 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 for forfeited and cancelled licenses: 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(a) 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(a) 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(b) 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), which is incorporated by reference, pay the appropriate fee specified in Section 370(c) 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(b), 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~~ specified in ~~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.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
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Review of Written Comments Received During the 15 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 were presented to the Board for review and consideration at its July 29, 2010, public meeting. As a result, the Board modified the proposed language, and board staff issued a 15-day Notice on August 23, 2010.

A summary of the oral and written comments received during the 15-day comment period are presented below.

Action Requested:

Staff requests the Board to review and consider the public comments received during the 15-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: Joseph A. Homesley, D.C. feels it is inappropriate to require the fingerprinting cost to be borne by the applicant when there is no choice in the matter other than to give up one's license. He suggests modifying the proposed language to grant a one-time compensation for bearing "the cost of fingerprinting" by allowing a deduction of that cost from the chiropractic license fee for the year in which the cost is accrued (with supporting documentation of the cost).

Staff Suggested Response: Staff disagrees and recommends the board reject this comment. Fingerprinting costs are charged and collected by the Livescan facility, DOJ and FBI, not the Board. Licensing fees are the Board's sole source of revenue to support its licensing and enforcement activities and fulfill its consumer protection mandate; therefore, the board cannot grant a deduction in the cost of the chiropractic license fee.

Joseph A. Homesley, D.C.
QUALIFIED MEDICAL EVALUATOR
2100 MYERS STREET
OROVILLE, CA 95966
BUS: (530) 533-2615
FAX: (530) 533-7689

BOARD OF
CHIROPRACTIC EXAMINERS
10 SEP -1 PM 1:50

August 27, 2010

Board of Chiropractic Examiners
Dixie Van Allen, Policy Analyst
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833

Dear Ms. Van Allen

I am writing this comment and suggestion regarding the proposed modification to the text of section 321.1. This comment is regarding a proposal for new modification rather than comment on the existing modifications.

The bulk of chiropractors affected by this proposed fingerprinting modification are those who have no criminal record, and who received their license before 1997 through an act of fate only. I feel it is inappropriate to require the fingerprinting cost to be borne by the applicant where there is no choice in the matter other than to give up one's license.

I propose a one- time compensation for bearing "the cost of fingerprinting" by allowing a deduction of that cost from the chiropractic license fee for the year in which the cost is accrued {with supporting documentation of the cost, of course}.

Warmest regards

Joseph A. Homesley, DC
JAH:ms

Proposed New Regulatory Language
Based on the Provisions of SB 1111 (Negrete McLeod)

Amend Existing Section 303 – Filing of Addresses:

(a) Each person holding a license to practice chiropractic in the State of California under any and all laws administered by the board shall file his proper and current place of practice address of his principal office and, where appropriate, each and every sub-office, with the board at its office in Sacramento and shall immediately notify the board at its said office of any and all changes of place of practice address, giving both his old and his new address within 30 days of change.

(b) Each licensee shall file a current and accurate e-mail address with the board at its office in Sacramento and shall immediately notify the board at its said office of any and all changes of the e-mail address, giving both the old and new e-mail address within 30 days of change.

Amend Existing Section §304 – Discipline by Another State.

~~The revocation, suspension, or other discipline by another state of a license or certificate to practice chiropractic, or any other health care profession for which a license or certificate is required, shall constitute grounds for disciplinary action against a chiropractic licensee or grounds for the denial of chiropractic licensure of an applicant in this state.~~ Any disciplinary action taken against a licensee by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States Military constitutes unprofessional conduct.

Add New Section 304. 5 – NPDB and HIPDB Searches:

The board shall conduct a search on the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank prior to granting or renewing a license.

Amend Existing Section §308 – Display of License.

(a) Each person holding a license shall display a current active license in a conspicuous place in the licensee's principal office or primary place of practice.

(b) Any licensed Doctor of Chiropractic with more than one place of practice shall obtain from the Board a Satellite Office Certificate for each additional place of practice. Said certificate must be renewed annually.

(c) A licensed Doctor of Chiropractic must display in a conspicuous place a current active Satellite Office Certificate at the office for which it was issued.

(d) Notwithstanding subdivisions (b) and (c), any licensed doctor of chiropractic who is practicing in a mobile setting, such as at a health fair, a sporting event, or a patient's home, shall not be required to obtain and display a satellite certificate. However, any licensee practicing in such a mobile setting must at all times carry a current and active pocket license and shall make their pocket licensed available for inspection to a representative of the Board or any member of the public upon request.

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(e) No licensed Doctor of Chiropractic shall display any chiropractic license, certificate or registration, which is not currently active and valid.

Add New Section 317.2 – Gag Clauses in Civil Agreements Prohibited:

(a) A licensee shall not include or permit to be included any of the following provisions in an agreement to settle a civil dispute arising from his or her practice, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting or cooperating with the board.

(2) A provision that prohibits another party to the dispute from filing a complaint with the board.

(3) A provision that requires another party to the dispute to attempt to withdraw a complaint he or she has filed with the board.

(b) A violation of this section constitutes unprofessional conduct and may subject the licensee to disciplinary action.

Add New Section 317.3 – Licensee Reporting Requirements:

(a) (1) A licensee shall report any of the following to the board:

(A) The bringing of an indictment or information charging a felony against the licensee.

(B) The arrest of the licensee.

(C) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(D) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government.

(2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or the charging of a felony, the arrest, the conviction, or the disciplinary action.

(b) Failure to make a report required by this section shall constitute unprofessional conduct.

Add New Section 317.4 – Suspension or Termination of Licensed Chiropractor by Another Chiropractor:

(a) Notwithstanding any other provision of law, any licensee who is an employer of a licensed chiropractor shall report to the board the suspension or termination for cause, or any resignation in lieu of suspension or termination for cause, of any licensed chiropractor in its employ within 15 business days.

(b) For purposes of the section, "suspension or termination for cause" or "resignation in lieu of suspension or termination for cause" is defined as resignation, suspension, or termination from employment for any of the following reasons:

(1) Use of controlled substances or alcohol to the extent that it impairs the licensee's ability to safely practice.

(2) Unlawful sale of a controlled substance or other prescription items.

DRAFT

(3) Patient or client abuse, neglect, physical harm, or sexual contact with a patient or client.

(4) Gross negligence or incompetence.

(5) Theft from a patient or client, any other employee, or the employer.

(c) As used in this section, the following definitions apply:

(1) "Gross negligence" means a substantial departure from the standard of care, which, under similar circumstances, would have ordinarily been exercised by a competent licensee, and which has or could have resulted in harm to the consumer. An exercise of so slight a degree of care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of the consumer shall be considered a substantial departure from the standard of care.

(2) "Incompetence" means the lack of possession of and the failure to exercise that degree of learning, skill, care, and experience ordinarily possessed by a responsible licensee.

(3) "Willful" means a knowing and intentional violation of a known legal duty.

(d) Failure of a licensee to make a report required by this section constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license. The board may use its authority to cite and fine a licensee for any violation of this section.

Add New Section 321.1 – Physical or Mental Examination of Applicants:

(a) In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to perform as a chiropractor safely because the applicant's ability to perform may be impaired due to mental illness, or physical illness affecting competency, the board may order the applicant to be examined by one or more physicians and surgeons, chiropractors, or psychologists designated by the board. The board shall pay the full cost of such examination.

(b) An applicant's failure to comply with an order issued under subdivision (a) shall render his or her application incomplete.

(c) The report of the evaluation shall be made available to the applicant.

(d) If after receiving the evaluation report the Board determines that the applicant is unable to safely practice, the Board may deny the application.

Add New Section 390.7 – Settlement in Lieu of Accusation or Statement of Issues:

(a) Notwithstanding Section 11415.60 of the Government Code, the board may enter into a settlement with a licensee or applicant in lieu of the issuance of an accusation or statement of issues against that licensee or applicant, as applicable.

(b) The settlement shall include language identifying the factual basis for the action being taken and a list of the statutes or regulations violated.

(c) A person who enters a settlement pursuant to this section is not precluded from filing a petition, in the timeframe permitted by law, to modify the terms of the settlement or petition for early termination of probation, if probation is part of the settlement.

(d) Any settlement executed pursuant to this section shall be considered discipline and a public record and shall be posted on the board's Internet Web site.

Add New Section 390.8 – Sexual Contact With Patient:

Except as otherwise provided, any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Business and Professions Code, shall contain an order of revocation. A proposed decision shall not contain a stay of the revocation.

Add New Section 390.9 – Required Actions Against Registered Sex Offenders:

(a) Except as otherwise provided, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, or under federal law, the board shall be subject to the following requirements:

(1) The board shall deny an application by the individual for licensure in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) If the individual is licensed under Chiropractic Initiative Act, the board shall promptly revoke the license of the individual in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The board shall not stay the revocation nor place the license on probation.

(3) The board shall not reinstate or reissue the individual's license. The board shall not issue a stay of license denial nor place the license on probation.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender, provided, however, that nothing in this paragraph shall prohibit the Board from exercising its discretion to deny or discipline a license under any other provision of state law.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the healing arts board from exercising its discretion to deny or discipline a license under any other provision of state law based upon the licensee's conviction under Section 314 of the Penal Code.

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to [insert effective date]. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this

paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

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STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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Draft Language for Informed Consent

To be handed out at Board Meeting

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Assembly
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BOB BLUMENFIELD
ASSEMBLYMEMBER, FORTIETH DISTRICT

CHAIR
BUDGET COMMITTEE

COMMITTEES
ARTS, ENTERTAINMENT, SPORTS, TOURISM AND INTERNET MEDIA
JOINT LEGISLATIVE BUDGET
TRANSPORTATION
WATER, PARKS AND WILDLIFE

September 8, 2010

Ms. Carrie Nevans
Acting Director, California Division of Workers' Compensation
1515 Clay Street, 17th floor
Oakland, CA 94612

Re: Chiropractic QME Specialty Listings

Dear Ms. Nevans,

I am writing to inquire about the status of implementation of chiropractic specialty boards within the qualified medical evaluators (QME) database.

As you are aware, the Division of Workers' Compensation (DWC) amended regulations (Sections 12 and 13 of Title 8, Division 1, Chapter 1, Article 2 of the state Division of Workers' Compensation) that took effect February 17, 2009 to require, as a condition of being listed on a QME specialty board, that the designated specialty board must be recognized by the physician's licensing board ("physician" was defined as referenced in Labor Code section 3209.3 which includes doctors of chiropractic).

Following adoption of these amendments, the state Board of Chiropractic Examiners (BCE), working with legal counsel from the state Department of Consumer Affairs, adopted regulations to specifically address the DWC regulatory mandate to recognize chiropractic specialty boards. Those regulations were approved by the state Office of Administrative Law (OAL) on March 16, 2010, and became effective April 15, 2010.

It is my understanding that in the nearly five months since the approval of the BCE specialty board recognition regulation, no action has been taken by the DWC to list qualified doctors of chiropractic QMEs in a particular specialty area. I would appreciate receiving from you a written timeline for establishing these listings in the DWC's QME database.

Thank you in advance for your response to my inquiry.

Sincerely,

BOB BLUMENFIELD
Assemblymember, 40th District

Representing the San Fernando Valley, including the communities of Canoga Park, Granada Hills, North Hills, Northridge, Reseda, Tarzana, Van Nuys, West Hills, Winnetka and Woodland Hills

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TITLE 8. INDUSTRIAL RELATIONS
DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
CHAPTER 1. DIVISION OF WORKERS' COMPENSATION – QUALIFIED MEDICAL EVALUATOR REGULATIONS

§ 1. Definitions

As used in the regulations in Chapter 1:

(a) "Accreditation" means the conferring of recognized status as a provider of physician education by the Administrative Director.

(b) "ACOEM" shall have the same meaning as section 9792.20(a), and "ACOEM Practice Guidelines" shall have the same meaning as section 9792.20(b) of Title 8 of the California Code of Regulations.

(c) "Administrative Director" means the administrative director of the Division of Workers' Compensation of the State of California Department of Industrial Relations, and includes his or her designee.

(d) "Agreed Panel QME" means the Qualified Medical Evaluator described in Labor Code section 4062.2(c), that the claims administrator, or if none the employer, and a represented employee agree upon and select from a QME panel list issued by the Medical Director without using the striking process. An Agreed Panel QME shall be entitled to be paid at the same rate as an Agreed Medical Evaluator under section 9795 of Title 8 of the California Code of Regulations for medical/legal evaluation procedures and medical testimony.

(e) "AMA Guides" means American Medical Association, Guides to the Evaluation of Permanent Impairment [Fifth Edition].

(f) "AME" means Agreed Medical Evaluator, a physician selected by agreement between the claims administrator, or if none the employer, and a represented employee to resolve disputed medical issues referred by the parties in a workers' compensation proceeding.

(g) "Appeals Board" means the Workers' Compensation Appeals Board within the State of California Department of Industrial Relations.

(h) "Audit" means a formal evaluation of a continuing education program, disability evaluation report writing course, or an accredited education provider which is conducted at the request of the Medical Director.

(i) "Comprehensive Medical-Legal Evaluation" means a medical evaluation performed pursuant to Labor Code Sections 4060, 4061, 4062, 4062.1, 4062.2 or 4067 and meeting the requirements of section 9793(c) of Title 8 of the California Code of Regulations.

(j) "Claims Administrator" means the person or entity responsible for the payment of compensation

for any of the following: a self-administered insurer providing security for the payment of compensation required by Divisions 4 and 4.5 of the Labor Code, a self-administered self-insured employer, a group self-insurer, an insured employer, the director of the Department of Industrial Relations as administrator for the Uninsured Employers Benefits Trust Fund (UEBTF) and for the Subsequent Injuries Benefit Trust Fund (SIBTF), a third-party claims administrator for a self-insured employer, insurer, legally uninsured employer, group self-insurer, or joint powers authority, and the California Insurance Guarantee Association (CIGA). The UEBTF shall only be subject to these regulations after proper service has been made on the uninsured employer and the Appeals Board has obtained jurisdiction over the UEBTF by joinder as a party.

(k) "Continuing Education Program" means a systematic learning experience (such as a course, seminar, or audiovisual or computer learning program) which serves to develop, maintain, or increase the knowledge, skills and professional performance of physicians who serve as Qualified Medical Evaluators in the California workers' compensation system.

(l) "Course" means the 12 hours of instruction in disability evaluation report writing which is required of a Qualified Medical Evaluator prior to appointment. A course must be approved by the Administrative Director.

(m) "Credit Hour" means a sixty minute hour. A credit hour may include time for questions and answers related to the presentation.

(n) "Direct medical treatment" means that special phase of the physician-patient relationship during which the physician: (1) attempts to clinically diagnose and to alter or modify the expression of a non-industrial illness, injury or pathological condition; or (2) attempts to cure or relieve the effects of an industrial injury.

(o) "Distance Learning" means an education program in which the instructor and student are in different locations, as in programs based on audio or video tapes, computer programs, or printed educational material.

(p) "DEU" is the Disability Evaluation Unit under the Administrative Director responsible for issuing summary disability ratings.

(q) "Education Provider" means the individual or organization which has been accredited by the Administrative Director to offer physician education programs. There are two categories of providers: (1) the Administrative Director; and (2) individuals, partnerships, or corporations, hospitals, clinics or other patient care facilities, educational institutions, medical or health-related organizations whose membership includes physicians as defined in Labor Code section 3209.3, organizations of non-medical participants in the California workers' compensation system, and governmental agencies. In the case of a national organization seeking accreditation, the California Chapter or organization affiliated with the national organization shall be accredited by the Administrative Director in lieu of the national organization.

(r) "Employer" means any employer within the meaning of Labor Code section 3300, including but not limited to, any of the following: (1) an uninsured employer and the Uninsured Employers Benefits Trust Fund (UEBTF) pursuant to Labor Code Section 3716, (2) an insured employer, (3) a

self-insured employer and (4) a lawfully uninsured employer. The UEBTF shall only be subject to these regulations after proper service has been made on the uninsured employer and the Appeals Board has obtained jurisdiction over the UEBTF by joinder as a party.

(s) "Evaluator" means any of the following: "Qualified Medical Evaluator", "Agreed Medical Evaluator", "Agreed Panel QME" or "Panel QME", as appropriate in a specific case.

(t) "Follow-up comprehensive medical-legal evaluation" means a medical evaluation performed pursuant to Labor Code sections 4060, 4061, 4062, 4062.1, 4062.2 or 4067 and meeting the requirements of Section 9793(f) of Title 8 of the California Code of Regulations.

(u) "Medical Treatment Utilization Schedule" or "MTUS" means the treatment utilization scheduled adopted by the Administrative Director of the Division of Workers' Compensation as required by Labor Code section 5307.27 and sections 9792.20 et seq of Title 8 of the California Code of Regulations.

(v) "Medical Director" means the Medical Director appointed by the Administrative Director pursuant to Labor Code section 122 and includes any Associate Medical Directors when acting as his or her designee.

(w) "Mental health record" means a medical treatment or evaluation record created or reviewed by a licensed physician as defined in Labor Code section 3209.3 in the course of treating or evaluating a mental disorder.

(x) "Panel QME" means the physician, from a QME panel list provided by the Medical Director, who is selected under Labor Code section 4062.1(c) when the injured worker is not represented by an attorney, and when the injured worker is represented by an attorney, the physician whose name remains after completion of the striking process or who is otherwise selected as provided in Labor Code section 4062.2(c) when the parties are unable to agree on an Agreed Panel QME.

(y) "Physician's office" means a bona fide office facility which is identified by a street address and any other more specific designation such as a suite or room number , ~~and~~ which contains the usual and customary equipment for the evaluation and treatment appropriate to the physician's medical specialty or practice.

(z) "Qualified Medical Evaluator (QME)" means a physician licensed by the appropriate licensing body for the state of California and appointed by the Administrative Director pursuant to Labor Code section 139.2, provided however, that acupuncturist QMEs shall not perform comprehensive medical-legal evaluations to determine disability.

(aa) "QME competency examination" means an examination administered by the Administrative Director for the purpose of demonstrating competence in evaluating medical-legal issues in the workers' compensation system. This examination shall be given at least as often as twice annually.

(bb) "QME competency examination for acupuncturists" means an examination administered by the Administrative Director for the purpose of demonstrating competence in evaluating medical-legal issues in the workers' compensation system which are not pertinent to the determination of disability,

but should be understood by acupuncturist QMEs. This examination shall be given at least as often as twice annually.

(cc) "Signature" means, unless explicitly provided otherwise, an original, handwritten signature.
(~~ee~~ dd) "Significant Financial Interest or Affiliation Held by Faculty", as used in sections 11.5, 14, 55, 118 and 119 pertaining to faculty of approved disability report writing or continuing education courses under these regulations, means grant or research support; status as a consultant, member of a speakers' bureau, or major stock shareholder; or other financial or material interest for the program faculty member or his or her family.

(~~dd~~ ee) "Specified Financial Interests" means having a shared financial interest that must be reported or disclosed pursuant to sections 11, 17, 29, 50 or on the "SFI Form 124" attached to QME Form 100, 103 or 104 as required by these regulations.

(~~ee~~ ff) "Supplemental medical-legal evaluation" means a medical evaluation performed pursuant to Labor Code sections 4060, 4061, 4062, 4062.1, 4062.2 or 4067 and meeting the requirements of section 9793(l) of Title 8 of the California Code of Regulations.

(~~ff~~ gg) "Treating physician" means a physician who has provided direct medical treatment to an employee which is reasonably required to cure or relieve the effects of an industrial injury pursuant to section 4600 of the Labor Code.

(~~gg~~ hh) "Unrepresented employee" means an employee not represented by an attorney.

Authority cited: Sections 53, 133, 139.2, 4060, 4061, 4062, 4062.1, 4062.2 and 5307.3, Labor Code. Reference: Sections 139.2, 139.3, 139.31, 139.4, 139.43, 3716, 4060, 4061, 4061.5, 4062, 4062.1, 4062.2, 4062.3, 4062.5, 4067, 4600, 4604.5 and 4660-4664, Labor Code.

§ 10. Appointment of QMEs

(a) Applications for appointment as a QME shall be submitted on the form in section 100 (QME Form 100). The completed application form, and any supporting documentation as required by the application, shall be filed at the Administrative Director's office listed on the form in section 100. Upon his or her approval of each application form and supporting documentation, the Administrative Director shall certify, as eligible to sit for the QME competency examination, those applicants who meet all of the statutory and regulatory eligibility requirements. Any application for appointment may be rejected if it is incomplete, contains false information or does not contain the required supporting documentation listed in section 11.

(b) A physician may concurrently hold separate QME certifications at up to five physician's office locations chosen by the QME, and up to five additional physician's office locations in ZIP codes in which fewer than five QMEs are currently certified in the QME's medical specialty. Each office location must be located in California, identified by a street address and any other more specific designation such as a suite or room number, must contain the usual and customary equipment for the evaluation and treatment appropriate to the physician's medical specialty or practice, and must comply with the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), section 11135 of the California Government Code,

section 51 *et.seq.* of the California Civil Code and other applicable state and federal disability laws. The QME must have a reasonable basis to believe that each office location will be available for the QME's use during the QME's current period of appointment.

(~~b~~ c) The Administrative Director may deny appointment or reappointment to any physician who has performed a QME evaluation or examination without valid QME certification at the time of examining the injured worker or the time of signing the initial or follow-up evaluation report. An applicant serving a period of probation imposed by the applicant's professional licensing board or agency may be allowed to take the QME examination while on probationary license status. Applications for appointment or reappointment from physicians who are on probationary license status with a California licensing board or agency while the QME application is pending shall be reviewed by the Medical Director on a case-by-case basis consistent with the provisions of Labor Code section 139.2(m).

(~~c~~ d) No physician who has been convicted of a felony or misdemeanor related to his or her practice shall be appointed or reappointed as a QME. An applicant who has been convicted of any other type of felony or misdemeanor may be denied appointment or reappointment.

(~~d~~ e) Any physician who, while under investigation or after the service of a statement of issues or accusation for alleged violations of these regulations or the Labor Code, withdraws his or her application for appointment or reappointment, resigns or fails to seek reappointment as a QME, shall be subject to having the disciplinary process reactivated whenever an application for appointment or re-appointment is subsequently filed. In the event any of the alleged violations are found to have occurred, the physician's application for appointment or reappointment may be denied by the Administrative Director.

NOTE: Form is available at no charge by downloading from the web at www.dir.ca.gov/dwc/forms.html or by requesting at 1-800-794-6900.

Authority cited: Sections 133, 139.2 and 5307.3, Labor Code; and Section 730, Business and Professions Code.
Reference: Sections 139.2, 4060, 4061, 4062, 4062.1 and 4062.2, Labor Code; and Section 730, Business and Professions Code.

§ 12. Recognition of Specialty Boards

The Administrative Director shall recognize only those specialty boards recognized by the respective California licensing boards for physicians and surgeons as defined in Labor Code section 3209.3.

Authority cited: Sections 133, 139.2, 139.4, 139.43, 139.45 and 5307.3, Labor Code.
Reference: Sections 139.2(b)(3)(A) and 3209.3, Labor Code; Section 651(i), Business and Professions Code.

§ 13. Physician's Specialty

A physician~~'s~~ and surgeon's specialty(ies) is one for which the physician is board certified or, one for which a medical doctor or doctor of osteopathy has completed a postgraduate specialty training as defined in Section 11(a)(2)(A) or held an appointment as a QME in that specialty on June 30, 2000, pursuant to Labor Code Section 139.2. To be listed as a QME in a particular specialty, the physician~~'s~~ and surgeon's licensing board must recognize the designated specialty board and the applicant for QME status must have provided to the Administrative Director documentation from the relevant board of certification or qualification.

Authority cited: Sections 133, 139.2, 139.4, 139.43, 139.45 and 5307.3, Labor Code.
Reference: Section 139.2(b)(3)(A), Labor Code; and Section 651(i), Business and Professions Code.

§ 17. Fee Schedule for QME

(a) All physicians seeking QME status shall be required to pay to the Workers' Compensation Administration Revolving Fund, the following fee:

(1) QMEs performing 0-10 comprehensive medical-legal evaluations, $ 110 during each of the years or any part of a year the physician retains his or her eligibility on the approved QME list.

(2) QMEs performing 11-24 comprehensive medical-legal evaluations, $ 125 during each of the years or any part of a year the physician retains his or her eligibility on the approved QME list.

(3) QMEs performing 25 or more comprehensive medical-legal evaluations, $ 250 during each of the years or any part of a year the physician retains his or her eligibility on the approved QME list.

(b) Individual QMEs who perform comprehensive medical-legal evaluations at more than one physician's office location shall be required to pay an additional $ 100 annually per additional office location. ~~Each physician's office listed with the Medical Director must be located within California, be identified by a street address and any other more specific location such as a suite or room number, and must contain the usual and customary equipment for the type of evaluation appropriate to the QME's medical specialty or scope of practice.~~ This requirement applies to all QMEs regardless of whether the QME is a sole practitioner, or corporation, or partnership pursuant to Corporations Code Chapter 2 (sections 15501-15533), Chapter 3 (sections 15611-15723) and/or Chapter 5 (sections 16100-16962).

(c) The Administrative Director may waive or return the statutory fee in the amount of $ 110 for the completion of a survey of QMEs to validate the QME competency examination. The term "completion of the survey" means the return of the survey to the testing agency designated by the Administrative Director on or before the date for the return of the survey.

(d) At the time of paying the appropriate QME annual fee, each QME shall also complete and forward to the Medical Director with the annual fee a completed QME SFI Form 124, providing updated information about the QME's specified financial interests as defined in section 29 of Title 8 of the California Code of Regulations.

Authority cited: Section 133, 139.2 and 5307.3, Labor Code. Reference: Section139.2, Labor Code.

Reference: Section139.2, Labor Code.

§ 30. QME Panel Requests

(a) Unrepresented cases. Whenever an injured worker is not represented by an attorney and either the employee or the claims administrator requests a QME panel pursuant to Labor Code section 4062.1, the request shall be submitted on the form in section 105 (Request for QME Panel under Labor Code Section 4062.1)(See, 8 Cal. Code Regs. § 105). The claims administrator (or if none the employer) shall provide Form 105 along with the Attachment to Form 105 (How to Request a Qualified Medical Evaluator if you do not have an Attorney) to the unrepresented employee by means of personal delivery or by first class or certified mailing. &&&&

(b) Represented cases. Requests for a QME panel in a represented case, for all cases with a date of injury on or after January 1, 2005, and for all other cases where represented parties agree to obtain a panel of Qualified Medical Evaluators pursuant to the process in Labor Code section 4062.2, shall be submitted on the form in section 106 (Request for a QME Panel under Labor Code Section 4062.2)(See, 8 Cal. Code Regs. § 106)~~.~~, attaching ~~The party requesting a QME panel shall:~~ the requesting party's written-request prescribed by Labor Code section 4062.2, subsection (b) which shall, consistent with the information included on Form 106:

1) indicate the date sent;

~~1)~~ 2) identify ~~the~~ one or more disputed ~~issue~~ medical issues that requires a comprehensive medical/legal report to be resolved and the relevant Labor Code section for each disputed issue identified;

3) identify the specific treating physician's report(s) that is the basis for each disputed issue identified in the written request to agree to an Agreed Medical Evaluator;

~~2)~~ 4) ~~attach a copy of the written proposal, naming~~ name one or more physicians to be an Agreed Medical Evaluator~~, that was sent to the opposing party once the dispute arose~~;

3) 5) designate a specialty for the QME panel requested;

~~4)~~ 6) state the specialty preferred by the opposing party, if known; and

~~5)~~ 7) state the specialty of the treating physician.

In represented cases with dates of injury prior to January 1, 2005, and only upon the parties' agreement to obtain a QME panel pursuant to Labor Code section 4062.2, the party requesting a QME panel shall submit QME Form 106 in compliance with this section and provide written evidence of the parties' agreement. Once such a panel in a represented case with a date of injury prior to January 1, 2005, is issued, the parties shall be bound by the timelines and process as described in Labor Code section 4062.2.

(c) In the event a request form is incomplete, or improperly completed, so that a QME panel selection cannot properly be made, the request form shall be returned to the requesting party with an explanation of why the QME panel selection could not be made. The Medical Director also may

delay issuing a new QME panel, if necessary, until the Medical Director receives additional reasonable information requested from a party or both parties, needed to resolve the panel request. Reasonable information as used in this subdivision includes but is not limited to whether a QME panel previously issued to the injured worker was used.

(d)(1) After a claim form has been filed, the claims administrator, or if none the employer, may request a panel of Qualified Medical Evaluators only as provided in Labor Code section 4060, to determine whether to accept or reject a claim within the ninety (90) day period for rejecting liability in Labor Code section 5402(b), and only after providing evidence of compliance with Labor Code Section 4062.1 or 4062.2.

(d)(2) Once the claims administrator, or if none the employer, has accepted as compensable injury to any body part in the claim, a request for a panel QME may only be filed based on a dispute arising under Labor Code section 4061 or 4062.

(d)(3) Whenever an injury or illness claim of an employee has been denied entirely by the claims administrator, or if none by the employer, only the employee may request a panel of Qualified Medical Evaluators, as provided in Labor Code sections 4060(d) and 4062.1 if unrepresented, or as provided in Labor Code sections 4060(c) and 4062.2 if represented.

(d)(4) After the ninety (90) day period specified in Labor Code section 5402(b) for denying liability has expired, a request from the claims administrator, or if none from the employer, for a QME panel to determine compensability shall only be issued upon presentation of a finding and decision issued by a Workers' Compensation Administrative Law Judge that the presumption in section 5402(b) has been rebutted and an order that a QME panel should be issued to determine compensability. The order shall also specify the residential or, if applicable, the employment-based zip code from which to select evaluators and either the medical specialty of the panel or which party may select the medical specialty.

(e) If the request form is submitted by or on behalf of an employee who no longer resides within the state of California, the geographic area of the QME panel selection within the state shall be determined by agreement between the claims administrator, or if none the employer, and the employee. If no agreement can be reached, the geographic area of the QME panel selection shall be determined for an unrepresented employee by the employee's former residence within the state, and for a represented employee by the office of the employee's attorney.

(f) To compile a panel list of three (3) independent QMEs randomly selected from the specialty designated by the party holding the legal right to request a QME panel, the Medical Director shall exclude from the panel, to the extent feasible, any QME who is listed by another QME as a business partner or as having a shared specified financial interest, as those terms are defined in sections 1 and 29 of Title 8 of the California Code of Regulations.

(g) The panel request in a represented case must be sent to the Medical Unit address on the QME Form 106 by means of first class mail delivered by the United States postal service. The Medical Unit will not accept panel requests in represented cases that are delivered in person by a party, the party's attorney, any other person or by other commercial courier or delivery services.

(h) The time periods specified in Labor Code sections 4062.1(c) and 4062.2(c), respectively, for selecting an evaluator from a QME panel and for scheduling an appointment, shall be tolled whenever the Medical Director asks a party for additional information needed to resolve the panel request. These time periods shall remain tolled until the date the Medical Director issues either a new QME panel or a decision on the panel request.

NOTE: Forms referred to above are available at no charge by downloading from the web at www.dir.ca.gov/dwc/forms.html or by requesting at 1-800-794-6900.

Authority cited: Sections 133, 139.2, 4061, 4062 and 5307.3, Labor Code.
Reference: Sections 139.2, 4061, 4062, 4062.1, 4062.2, 4062.3, 4064 and 4067, Labor Code.

§ 31.1. QME Panel Selection Disputes in Represented Cases

(a) When the Medical Director receives two or more panel selection forms pursuant to Labor Code section 4062.2 from opposing parties on the same day and the forms designate different physician specialties for the QME panel, the Medical Director shall use the following procedures:

1) If one party requests the same specialty as that of the treating physician, the panel shall be issued in the specialty of the treating physician unless the Medical Director is persuaded by supporting documentation provided by the requestor that explains the medical basis for the requested specialty;

2) If no party requests a panel in the specialty of the treating physician, the Medical Director shall select a specialty appropriate for the medical issue in dispute and issue a panel in that specialty.

3) Upon request by the Medical Director, the party requesting the panel shall provide additional relevant medical records to assist the Medical Director in determining the appropriate specialty.

~~(b)~~ 4) In the event a party in a represented case wishes to request a QME panel pursuant to Labor Code section 4062.2 in a specialty other than the specialty of the treating physician, the party shall submit with the panel request form any relevant documentation supporting the reason for requesting a different specialty.

~~(c)~~ (d) In the event the Medical Director is unable to issue a QME panel in a represented case within thirty (30) calendar days of receiving the request, either party may seek an order from a Workers' Compensation Administrative Law Judge that a QME panel be issued. Any such order shall specify the specialty of the QME panel, the zip code from which to search for QMEs in that specialty, the date of injury and the parties' addresses, or the party to be designated to select the specialty and the timeframe for requesting the QME panel.

Authority cited: Sections 133, 139.2 and 5307.3, Labor Code.
Reference: Sections 139.2, 4060, 4061 and 4062, Labor Code.

§ 33. Unavailability of QME

(a) A QME who will be unavailable to schedule or perform comprehensive medical evaluations as an Agreed Panel QME or as a Panel QME for a period of 14 days, or up to a maximum of 90 days

during ~~a one year fee period,~~ any calendar year for any reason shall notify the Medical Director by submitting the form in Section 109 (Notice of Qualified Medical Evaluator Unavailability) (see, 8 Cal. Code Regs. § 109) at least 30 days before the period of unavailability is to begin. The Medical Director may, in his or her discretion, grant unavailable status within the 30-day notice period for good cause, including but not limited to medical or family emergency.

(b) At the time of requesting unavailable status, the QME shall provide the Medical Director with a list of any and all comprehensive medical/legal evaluation examinations already scheduled during the time requested for unavailable status. The QME shall indicate whether each such examination is being rescheduled or the QME plans to complete the exam and report while in unavailable status.

(c) A QME who is unavailable as provided in subdivision (a) shall not perform any new evaluation examinations as a QME until the physician returns to active QME status. Such a QME may complete medical-legal examinations and reports already scheduled and reported to the Medical Director, as well as reports for evaluation examinations performed prior to becoming unavailable under subdivision (a). Such a QME also may complete supplemental reports.

(d) It shall not be an acceptable reason for unavailability that a QME does not intend to perform comprehensive medical-legal evaluations for unrepresented workers. A QME who has filed notifications for unavailability totaling more than ninety (90) days during ~~the QME fee period~~ any calendar year without good cause may be denied reappointment subject to section 52 of Title 8 of the California Code of Regulations. Good cause includes, but is not limited to, sabbaticals, or death or serious illness of an immediate family member.

(e) If a party with the legal right to schedule an appointment with a QME is unable to obtain an appointment with a selected QME within sixty (60) days of the date of the appointment request, that party may waive the right to a replacement in order to accept an appointment no more than ninety (90) days after the date of the party's initial appointment request. When the selected QME is unable to schedule the evaluation within ninety (90) days of the date of that party's initial appointment request, either party may report the unavailability of the QME and the Medical Director shall issue a replacement pursuant to section 31.5 of Title 8 of the California Code of Regulations upon request, unless both parties agree in writing to waive the ninety (90) day time limit for scheduling the initial evaluation.

(f) If a QME fails to notify the Medical Director, by submitting the form in section 109 (Notice of Qualified Medical Evaluator Unavailability) (see, 8 Cal. Code Regs. § 109), of his or her unavailability at a medical office at least thirty (30) days prior to the period the evaluator becomes unavailable, the Medical Director may designate the QME to be unavailable at that location for thirty (30) days from the date the Medical Director learns of the unavailability.

(g) Whenever the Medical Director is notified by a party seeking an appointment with a Qualified Medical Evaluator, or otherwise becomes aware, that the QME is not available and not responding to calls or mail at a location listed for the QME, a ~~certified~~ letter will be sent to the QME by the Medical Director, addressed to the address of record filed with the QME's licensing board, regarding his/her unavailability. If the Medical Director does not receive a response within fifteen (15) days of the date the ~~certified~~ letter is mailed, then the QME will be made unavailable at that location. The

time a QME is placed on unavailable status pursuant to this subdivision shall count toward the ninety (90) day limit in subdivision 33(a) of Title 8 of the California Code of Regulations.

Authority cited: Sections 133, 139.2 and 5307.3, Labor Code.
Reference: Sections 139.2, 4060, 4061, 4062, 4062.1, 4062.2, 4062.5 and 4067, Labor Code.

§ 35. Exchange of Information and Ex Parte Communications

(a) The claims administrator, or if none the employer, shall provide, and the injured worker may provide, the following information to the evaluator, whether an AME, Agreed panel QME or QME:

(1) All records prepared or maintained by the employee's treating physician or physicians;

(2) Other medical records, including any previous treatment records or information, which are relevant to determination of the medical issue(s) in dispute;

(3) A letter outlining the issues that the evaluator is requested to address in the evaluation, which shall be served on the opposing party no less than 20 days in advance of the evaluation;

(4) Whenever the treating physician's recommended medical treatment is disputed, a copy of the treating physician's report recommending the medical treatment with all supporting documents, a copy of claims administrator's, or if none the employer's, decision to approve, delay, deny or modify the disputed treatment with the documents supporting the decision, and all other relevant communications about the disputed treatment exchanged during the utilization review process required by Labor Code section 4610;

(5) Non-medical records, including films and videotapes, which are relevant to determination of medical issue(s) in dispute, after compliance with subdivision 35(c) of Title 8 of the California Code of Regulations.

(b)(1) All communications ~~by the parties with~~ between any party and the evaluator, whether initiated by the employee, the claims administrator, the evaluator, or their attorneys, shall be in writing and sent simultaneously to the opposing party ~~when sent to the medical evaluator~~, except as otherwise provided in subdivisions (c), (k) and (l) of this section.

(2) Represented parties who have selected an Agreed Medical Evaluator or an Agreed Panel QME shall, as part of their agreement, agree on what information is to be provided to the AME or the Agreed Panel QME, respectively.

(c) At least twenty (20) days before the information is to be provided to the evaluator, the party providing such medical and non-medical reports and information shall serve it on the opposing party. Mental health records that are subject to the protections of Health and Safety Code section 123115(b) shall not be served directly on the injured employee, but may be provided to a designated health care provider as provided in section 123115(b)(2), and the injured employee shall be notified in writing of this option for each such record to be provided to the evaluator. In both unrepresented and represented cases the claims administrator shall attach a log to the front of the records and information being sent to the opposing party that identifies each record or other information to be

sent to the evaluator and lists each item in the order it is attached to or appears on the log. In a represented case, the injured worker's attorney shall do the same for any records or other information to be sent to the evaluator directly from the attorney's office, if any. The claims administrator, or if none the employer, shall include a cover letter or other document when providing such information to the employee which shall clearly and conspicuously include the following language: "Please look carefully at the enclosed information. It may be used by the doctor who is evaluating your medical condition as it relates to your workers' compensation claim. If you do not want the doctor to see this information, you must let me know within 10 days."

(d) If the opposing party objects within 10 days to any non-medical records or information proposed to be sent to an evaluator, those records and that information shall not be provided to the evaluator unless so ordered by a Workers' Compensation Administrative Law Judge.

(e) In no event shall any party forward to the evaluator: (1) any medical/legal report which has been rejected by a party as untimely pursuant to Labor Code section 4062.5; (2) any evaluation or consulting report written by any physician other than a treating physician, the primary treating physician or secondary physician, or an evaluator through the medical-legal process in Labor Code sections 4060 through 4062, that addresses permanent impairment, permanent disability or apportionment under California workers' compensation laws, unless that physician's report has first been ruled admissible by a Workers' Compensation Administrative Law Judge; or (3) any medical report or record or other information or thing which has been stricken, or found inadequate or inadmissible by a Workers' Compensation Administrative Law Judge, or which otherwise has been deemed inadmissible to the evaluator as a matter of law.

(f) Either party may use discovery to establish the accuracy or authenticity of non-medical records or information prior to the evaluation.

(g) Copies of all records being sent to the evaluator shall be sent to all parties except as otherwise provided in section (d) and (e). Failure to do so shall constitute ex parte communication within the meaning of subdivision (k) below by the party transmitting the information to the evaluator.

(h) In the event that the unrepresented employee schedules an appointment within 20 days of receipt of the panel, the employer or if none, the claims administrator shall not be required to comply with the 20 day time frame for sending medical information in subsection (c) provided, however, that the unrepresented employee is served all non-medical information in subdivision (c) 20 days prior to the information being served on the QME so the employee has an opportunity to object to any non-medical information.

(i) In the event that a party fails to provide to the evaluator any relevant medical record which the evaluator deems necessary to perform a comprehensive medical-legal evaluation, the evaluator may contact the treating physician or other health care provider, to obtain such record(s). If the party fails to provide relevant medical records within 10 days after the date of the evaluation, and the evaluator is unable to obtain the records, the evaluator shall complete and serve the report to comply with the statutory time frames under section 38 of Title 8 of the California Code of Regulations. The evaluator shall note in the report that the records were not received within the required time period. Upon request by a party, or the Appeals Board, the evaluator shall complete a supplemental evaluation when the relevant medical records are received. For a supplemental report the evaluator

need not conduct an additional physical examination of the employee if the evaluator believes a review of the additional records is sufficient.

(j) The evaluator and the employee's treating physician(s) may consult as necessary to produce a complete and accurate report. The evaluator shall note within the report new or additional information received from the treating physician.

(k) The Appeals Board shall retain jurisdiction in all cases to determine disputes arising from objections and whether ex parte contact in violation of Labor Code section 4062.3 or this section of Title 8 of the California Code of Regulations has occurred. If any party communicates with an evaluator in violation of Labor Code section 4062.3, the Medical Director shall provide the aggrieved party with a new panel in which to select a new QME or the aggrieved party may elect to proceed with the original evaluator. Oral or written communications by the employee, or if the employee is deceased by the employee's dependent, made in the course of the examination or made at the request of the evaluator in connection with the examination shall not provide grounds for a new evaluator unless the Appeals Board has made a specific finding of an impermissible ex parte communication.

(l) In claims involving a date of injury prior to 1/1/2005 where the injured worker is represented by an attorney and the parties have decided to each select a separate Qualified Medical Evaluator, the provisions of this section shall not apply to the communications between a party and the QME selected by that party.

Authority cited: Sections 133, 139.2 and 5307.3, Labor Code.
Reference: Sections 139.2, 4060, 4061, 4062, 4062.1, 4062.2, 4062.3, 4064 and 4067, Labor Code.

§ 35.5. Compliance by AMEs and QMEs with Administrative Director Evaluation and Reporting Guidelines

(a) Each evaluation examination and report completed pursuant to Labor Code sections 4060, 4061, 4062, 4062.1, 4062.2, 4064, 4067 or 5703.5 shall be performed in compliance with all appropriate evaluation procedures pursuant to this Chapter.

(b) Each reporting evaluator shall state in the body of the comprehensive medical-legal report the date the examination was completed and the street address at which the examination was performed. If the evaluator signs the report on any date other than the date the examination was completed, the evaluator shall enter the date the report is signed next to or near the signature on the report.

(c) The evaluator shall address all contested medical issues arising from all injuries reported on one or more claim forms prior to the date of the employee's appointment with the medical evaluator that are issues within the evaluator's scope of practice and areas of clinical competence. The reporting evaluator shall attempt to address each question raised by each party in the issue cover letter sent to the evaluator as provided in subdivision 35(a)(3).

(d) At the evaluator's earliest opportunity and no later than the date the report is served, the evaluator shall advise the parties in writing of any disputed medical issues outside of the evaluator's scope of practice and area of clinical competency in order that the parties may initiate the process for

obtaining an additional evaluation pursuant to section 4062.1 or 4062.2 of the Labor Code and these regulations in another specialty. In the case of an Agreed Panel QME or a panel QME, the evaluator shall send a copy of the written notification provided to the parties to the Medical Director at the same time. However, only a party's request for an additional panel, with the evaluator's written notice under this section attached, or an order by a Workers' Compensation Administrative Law Judge, will be acted upon by the Medical Director to issue a new QME panel in another specialty in the claim.

(e) In the event a new injury or illness is claimed involving the same type of body part or body system and the parties are the same, or in the event either party objects to any new medical issue within the evaluator's scope of practice and clinical competence, the parties shall utilize to the extent possible the same evaluator who reported previously.

(f) Unless the Appeals Board or a Workers' Compensation Administrative Law Judge orders otherwise or the parties agree otherwise, whenever a party is legally entitled to depose the evaluator, the evaluator shall make himself or herself available for deposition within at ~~least~~ most one hundred twenty (120) days of the notice of deposition and, upon the request of the unrepresented injured worker and whenever consistent with Labor Code section 5710, the deposition shall be held at the location at which the evaluation examination was performed, or at a facility or office chosen by the deposing party that is not more than 20 miles from the location of the evaluation examination.

(g) Whenever an Agreed Medical Evaluator or Qualified Medical Evaluator provides an opinion in a comprehensive medical/legal report on a disputed medical treatment issue, the evaluator's opinion shall be consistent with and apply the standards of evidence-based medicine set out in Division 1, Chapter 4.5, Subchapter 1, sections 9792.20 et seq of Title 8 of the California Code of Regulations (Medical Treatment Utilization Schedule). In the event the disputed medical treatment, condition or injury is not addressed by the Medical Treatment Utilization Schedule, the evaluator's medical opinion shall be consistent with and refer to other evidence-based medical treatment guidelines, peer reviewed studies and articles, if any, and otherwise shall explain the medical basis for the evaluator's reasoning and conclusions.

Authority cited: Sections 133, 139.2, 4062.3 and 5307.3, Labor Code.
Reference: Sections 139.2, 4060, 4061, 4062, 4062.1, 4062.2, 4064, 4067, 4604.5, 4628, 5703.5, 5307.27 and 5710, Labor Code.

§ 41. Ethical Requirements

(a) All QMEs, regardless of whether the injured worker is represented by an attorney, shall:

(1) Maintain a clean, professional physician's office (as defined in section 1(y) at all times which shall contain functioning medical instruments and equipment appropriate to conducting the evaluation within the physician's scope of practice and a functioning business office phone with the phone number listed with the Medical Director for that location which a party may use to schedule an examination or to handle other matters related to a comprehensive medical/legal evaluation.

(2) Schedule all appointments for comprehensive medical-legal evaluations without regard to whether a worker is unrepresented or represented by an attorney. A QME shall not refuse to

schedule an appointment with an injured worker solely because the worker is not represented by an attorney or because a promise to reimburse or reimbursement is not made prior to the evaluation.

(3) Not request the employee to submit to an unnecessary exam or procedure.

(4) Refrain from treating or soliciting to provide medical treatment, medical supplies or medical devices to the injured worker.

(5) Communicate with the injured worker in a respectful, courteous and professional manner.

(6) Refrain from violating section 41.5 of Title 8 of the California Code of Regulations.

(7) Refrain from unilaterally rescheduling a panel QME examination more than two times in the same case.

(8) Refrain from cancelling a QME examination less than six (6) business days from the date the exam is scheduled without good cause and without providing a new examination date within thirty (30) calendar days of the date of cancellation.

(b) Evaluators selected from a QME panel provided by the Administrative Director shall not engage in ex parte communication in violation of Labor Code section 4062.3.

(c) All QMEs, regardless of whether the injured worker is represented by an attorney, shall with respect to his or her comprehensive medical-legal evaluation:

(1) Refuse any compensation <u>or any other thing of value</u> from any source contingent upon writing an opinion that in any way could be construed as unfavorable to a party to the case<u>, and shall not request or accept payment or any other thing of value in connection with QME services in excess of the amount allowable pursuant to section 9494 of title 8 of the California Code of Regulations.</u>

(2) Review all available relevant medical and non-medical records and/or facts necessary for an accurate and objective assessment of the contested medical issues in an injured worker's case before generating a written report. The report must list and summarize all medical and non-medical records reviewed as part of the evaluation.

(3) Render expert opinions or conclusions without regard to an injured worker's race, sex, national origin, religion<u>, age, disability,</u> or sexual preference.

(4) Render expert opinions or conclusions only on issues which the evaluator has adequate qualifications, education, and training. All conclusions shall be based on the facts and on the evaluator's training and specialty-based knowledge and shall be without bias either for or against the injured worker or the claims administrator, or if none the employer.

(5) Present a report that addresses all relevant and contested medical issues as presented on one or more claim forms, is ratable by the DEU, if applicable, and complies with all relevant guidelines of the Administrative Director.

(6) Date the report on the date it is completed and ready for signature and service on the parties. No report shall be dated on the date of the evaluation examination unless the full written text of the report is completed and ready for signature and service on that same date.

(7) Write all portions of the report that contain discussion of medical issues, medical research used as the basis for medical determinations, and medical conclusions made by the evaluator. In the event more than one evaluator signs a single report, each signing physician shall clearly state those parts of the employee evaluation examination performed and the portions of the report discussion and conclusion drafted by the signing evaluator. Where a consultation report is obtained by an evaluator from a physician in a different specialty, the consultation report shall be incorporated by reference into the final report and appended to the referring QME's report.

(8) Serve the report as provided in these regulations at the same time on the employee and the claims administrator, or if none the employer, and on each of their attorneys, respectively.

(d) All aspects of all physical and/or psychological comprehensive medical-legal evaluations, including history taking, shall be directly related to contested medical issues as presented by any party or addressed in the reports of treating physician(s). No evaluator shall engage in any physical contact with the injured worker which is unnecessary to complete the examination.

(e) No physician certified by the Administrative Director as a QME, or his or her agent, shall contact an evaluator for the purpose of influencing that evaluator's opinions or conclusions in any comprehensive medical-legal evaluation or report.

(f) No evaluator shall schedule appointments to the extent that any injured worker will be required to wait for more than one hour at the evaluator's office prior to being seen for the previously agreed upon appointment time for an evaluation. An injured worker who is not seen by the evaluator within one hour may terminate the exam and request a replacement evaluator from the Administrative Director. No party shall be liable for the terminated exam. The evaluator may explain any reasons for the delay to the injured worker and, provided both parties agree, the evaluation may proceed or be rescheduled for a later date. If the evaluation is rescheduled, the evaluator shall provide notice of the new date of the evaluation to the parties within 5 business days after rescheduling the appointment.

(g) If the injured worker terminates the examination process based on an alleged violation of section 35(k), 40, 41(a) or 41.5 of Title 8 of the California Code of Regulations, and the Appeals Board later determines that good cause did not exist for the termination, the cost of the evaluation shall be deducted from the injured worker's award. A violation of section 40 or of any part of section 41(a) or 41.5 by the evaluator shall constitute good cause for purposes of an Appeals Board determination. No party shall be liable for any cost for medical reports or medical services delivered as a result of an exam terminated for good cause.

(h) Nothing in this section shall require an evaluator to undertake or continue a comprehensive medical-legal evaluation where the injured worker or his/her representative uses abusive language towards the evaluator or evaluator's staff or deliberately attempts to disrupt the operation of the evaluator's office in any way. The evaluator shall state under penalty of perjury, the facts supporting the termination of the evaluation process. Upon request, the Medical Director shall investigate the

facts and make a final determination of the issue(s).

(i) Nothing in this section shall require an evaluator selected from a panel to undertake or continue a comprehensive medical-legal evaluation where the injured worker is intoxicated or under the influence of any medication which impairs the injured worker's ability to participate in the evaluation process. The evaluator shall state under penalty of perjury, the facts supporting the termination of the evaluation process. Upon request, the Medical Director shall investigate the facts and make a final determination of the issue(s).

Authority cited: Sections 133, 139.2, 5307.3 and 5307.6, Labor Code.
Reference: Sections 139.2, 4060, 4061, 4062, 4062.1, 4062.2, 4062.3, 4062.5, 4067 and 4628, Labor Code.

§ 41.5. Conflicts of Interest by Medical Evaluators

(a) An evaluator shall not request or accept payment or any other thing of value in connection with QME services in excess of the amount allowable pursuant to section 9494 of title 8 of the California Code of Regulations, and shall not request or accept any compensation or other thing of value from any source that does or could create a conflict with his or her duties as an evaluator under the Labor Code or the regulations of the Administrative Director (Title 8 of the California Code of Regulations, Chapters 1 through 1.8, section 1 et seq) or of the Workers' Compensation Appeals Board (Title 8 of the California Code of Regulations, Chapters 1.9, sections 10600 through 10727) .

(b) A conflict with the duties of an evaluator as used in Labor Code section 139.2(o) means having a disqualifying conflict of interest with one or more of the persons or entities described in subdivision (c) and failing to disclose the fact of the conflict.

(c) The persons or entities with whom a disqualifying conflict of interest can exist are:

(1) The injured worker, or his or her attorney;

(2) The employer, or the employer's ~~attorney~~ workers' compensation insurer, third-party claims administrator, utilization review physician or other entity contracted to provide utilization review services pursuant to Section 4610

~~(3) The claims adjuster or insurer or third party administrator~~, or their attorneys, respectively;

(~~4~~ 3) Any primary treating physician or secondary physician for the employee, if the treatment provided by that physician is disputed in the case;

~~(5) The utilization review physician reviewer or expert reviewer, or utilization review organization, only if the opinion of that reviewer or that utilization review organization is disputed in the case;~~

(~~6~~ 4) The surgical center in which the injured worker had, or is proposed to be used to have, surgery, only if the need for surgery is disputed in the case.

(~~7~~ 5) Other purveyor of medical goods or medical services, only if the medical necessity for using

such goods or services is in dispute in the case.

(d) "Disqualifying Conflict of Interest" means the evaluator has any of the following relationships or interests with a person or entity listed in subdivision 41.5(c):

(1) A familial relationship of parent, child, grandparent, grandchild, sibling, uncle, aunt, nephew, niece, spouse, fi~~n~~ance~~e~~e or cohabitant;

(2) A significant disqualifying financial interest, as defined below, including:

(A) Employment or a promise of employment;

(B) An interest of five (5) % or more in the fair market value of any form of business entity involved in workers' compensation matters, or of private real property or personal property, or in a leasehold interest;

(C) Five (5) % or more of the evaluator's income is received from direct referrals by or from one or more contracts with a person or entity listed in subdivision 41.5(c), except that contracts for participation in a Medical Provider Network as defined under Labor Code section 4616 et seq shall be excluded;

(D) A financial interest as defined in Labor Code section 139.3 that would preclude referral by the evaluator to such a person or entity;

(E) A financial interest as defined under the Physician Ownership and Referral Act of 1993 (PORA) set out in Business and Professions Code sections 650.01 and 650.02 that would preclude referral by the evaluator to such a person or entity.

(3) A professional affiliation which means the evaluator performs services in the same medical group or other business entity comprised of medical evaluators who specialize in workers' compensation medical - legal evaluations;

(4) Any other relationship or interest not addressed by subdivisions (d)(1) through (d)(3) which would cause a person aware of the facts to reasonably entertain a doubt that the evaluator would be able to act with integrity and impartiality.

(e) An Agreed Medical Evaluator or a Qualified Medical Evaluator may disqualify himself or herself on the basis of a conflict of interest pursuant to this section whenever the evaluator has a relationship with a person or entity in a specific case, including doctor-patient, familial, financial or professional, that causes the evaluator to decide it would be unethical to perform a comprehensive medical-legal evaluation examination or to write a report in the case.

(f) An Agreed Medical Evaluator or Qualified Medical Evaluator who knows, or should know, that he or she has a disqualifying conflict of interest with any person or entity listed in subdivision 41.5(c), that also is involved in the specific workers' compensation claim identified to the evaluator, shall send written notification to the injured worker and the claims administrator, or if none the employer, or their respective attorneys if any, within five (5) business days of the evaluator

becoming aware of the conflict. The written notice shall include, at a minimum: 1) disclosure that a disqualifying conflict of interest exists; 2) the person or entity with whom the conflict arises; and 3) the category of conflict, such as familial, significant financial, or other type of ethical conflict. Whenever the evaluator declines to perform an evaluation due to disqualifying himself or herself pursuant to subdivision 41.5(e), the parties shall be entitled to a replacement QME or, in represented cases a replacement panel pursuant to section 31.5 of Title 8 of the California Code of Regulations. Whenever the evaluator notifies the parties of a conflict without stating that he or she declines to perform the evaluation, the parties shall follow the procedures set out in section 41.6 of Title 8 of the California Code of Regulations. In any case in which the injured worker is not represented by an attorney, the evaluator shall fax a copy of the notice of conflict to the Medical Unit of the Division of Workers' Compensation at the same time it is sent to the parties.

(g) Any injured worker or claims administrator or if none the employer, including his or her attorney respectively, who knows of, or becomes aware of, a potential disqualifying conflict of interest, as defined under this section, with a specific evaluator selected to perform a comprehensive medical/legal examination and report or a follow up examination and report, shall notify the selected evaluator in writing at the earliest opportunity and no later than within five (5) business days of becoming aware of the potential conflict, to enable the evaluator to determine whether the disqualifying conflict exists. The notice shall include the person with whom the alleged conflict exists and the nature of the conflict. A copy of this notice shall be served on the opposing party at the same time as it is sent to the evaluator. The evaluator shall review the information provided and advise the parties in writing within five (5) business days of receipt of the notice whether the evaluator has a conflict of interest as specified in this section.

Authority cited: Sections 133, 139.2(o) and 5307.3, Labor Code.
Reference: Sections 139.2 and 139.3, Labor Code; and Sections 650.01 and 650.02, Business and Professions Code.

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September 13, 2010

Ms. Carrie Nevans,
Administrative Director
Division of Worker's Compensation
1515 Clay Street, 17th Floor
Oakland, CA 94612-1402

Dear Ms. Nevans:

On April 14, 2010, CCR Title 16, Section 4, Regulation 311.1 was approved of the Office of Administrative Law as follows:

> § 311.1. Chiropractic Specialties. For purposes of the Department of Industrial Relations' Qualified Medical Evaluator Eligibility regulations (Division of Workers' Compensation, Title 8, California Code of Regulations, Section 12), the board recognizes only those specialty boards that are recognized by the American Chiropractic Association or the International Chiropractors Association.

This regulation, in conjunction with the DWC QME Regulation 12, now requires the DWC Medical Unit to recognize all of the Chiropractic board specialties as referenced above.

> § 12. Recognition of Specialty Boards The Administrative Director shall recognize only those specialty boards recognized by the respective California licensing boards for physicians as defined in Labor Code section 3209.3. Note: Authority cited: Sections 133, 139.2, 139.4, 139.43, 139.45, and 5307.3, Labor Code. Refer-ence: Sections 139.2(b)(3)(A) and 3209.3, Labor Code; Section 651(i) Business and Professions Code.

On April 23rd, we sent a letter to Mr. John Duncan, Director of the Department of Industrial Relations (copy attached) informing him of the new regulation and providing him with a list of the specialties the CBCE now recognizes. Since then, we have not had a response.

We have several licensees who have been asking us when the DWC Medical Unit will be recognizing the Chiropractic specialty boards. We would appreciate receiving a timetable or estimate from the Medical Unit as to when this will be put into effect.

Thank you in advance for your cooperation in this matter. If you have any questions, please contact our Executive Officer, Mr. Robert Puleo at your convenience.

Sincerely,

Frederick N. Lerner, D.C., Ph.D.
Board Chair

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April 23, 2010

John C. Duncan, Director
Department of Industrial Relations
455 Golden Gate Avenue
San Francisco CA 94102

Dear Director Duncan:

I am writing to inform you that, as of April 14, 2010, Regulation 311.1 went into effect which states:

§ 311.1. Chiropractic Specialties.

For purposes of the Department of Industrial Relations' Qualified Medical Evaluator Eligibility regulations (Division of Workers' Compensation, Title 8, California Code of Regulations, Section 12), the board recognizes only those specialty boards that are recognized by the American Chiropractic Association or the International Chiropractors Association.

This regulation is in keeping with Title 1, Division 1, Chapter 1 (Qualified Medical Evaluator Regulations) regulation § 12, which states:

§ 12. Recognition of Specialty Boards

The Administrative Director shall recognize only those specialty boards recognized by the respective California licensing boards for physicians as defined in Labor Code section 3209.3.

As a courtesy to your Department and the DWC - Medical Unit, I have enclosed the current list of such specialty programs from the American Chiropractic Association and the International Chiropractors Association.

If you have any questions, please contact me or our Interim Executive Officer, Robert Puleo.

Sincerely,

Fred N. Lerner, D.C., Ph.D.
Chair, CBCE

enc.

Part- time Postgraduate Chiropractic Specialty Programs

Family Practice	300-hour program that focuses on, identification patient assessment of early signs of disease, prevention of disease, application of diagnostic modalities in the clinical setting, and use of appropriate lifestyle and nutritional therapies that will benefit the patient.	Eligible to sit for exam to become a Diplomate of the American Board of Chiropractic Internists (DABCI)
Clinical Neurology	300-hour program that prepares the chiropractor to serve the public and other health care providers as a neurological specialist or consultant who is trained to diagnose and attend disorders of the human nervous system without the use of drugs or surgery.	Eligible to sit for the Certification Examination In Neurology given by the American Chiropractic Neurology Board to obtain Diplomate status (DACNB)
Sports Chiropractic	320-hour program that emphasizes the total care of the injured athlete, which encompasses industrial, community, intramural and recreational athletes who participate in sports activities and are at risk of sustaining sports- related injuries.	Eligible to sit for the exam to become a Certified Chiropractic Sports Physician
Nutrition	300-hour program that focuses on development of advanced knowledge, skills, and abilities in the use of nutrition in the practice of chiropractic.	-Eligible to sit for the exam to become a Diplomate of the American Clinical Board of Nutrition (DACBN)
Chiropractic Occupational Health and Applied Ergonomics (Industrial Consulting)	300-hour program provides doctors with the information and skills they may apply in their objective of functioning as effective professional consultants to corporate clients within their communities.	Eligible to sit for the exam to become a Diplomate, American Chiropractic Board of Occupational Health (DACBOH)

Applied Chiropractic Sciences	360-hour program that is designed to enhance and advance the expertise and application of both classic chiropractic care approaches and emerging technologies, and to provide a comprehensive correlation of clinical protocols that are presented in the context of subluxation-based chiropractic models of care.	Eligible to sit for the exam to become a Diplomate of Applied Chiropractic Sciences (DACS)
Orthopedics	384-hour program that is designed to advance the ability of the doctor of chiropractic to diagnose, treat, and manage conditions or disorders of the musculoskeletal system.	Eligible to sit for the exam given by the American Board of Chiropractic Orthopedists to obtain Diplomate status (DABCO)
Pediatrics	360-hour program that is designed to offer the materials and tools to handle the issues, concerns and practice protocols relevant in caring for children and pregnant women.	Eligible to sit for the exam to earn Diplomate of the ICA Council on Chiropractic Pediatrics (DICCP) status
Rehabilitation	300-hour program prepares doctors to become specialists who are not only experts in manipulation, but know how to transition from passive to active care, and to evaluate the biobehavioral component of musculoskeletal illness.	Eligible for the exam given by the American Chiropractic Rehabilitation Board (ACRE)
Philosophical Chiropractic Standards	320-hour program that addresses the appeal for graduate level training with the unique tenets of chiropractic philosophy.	Eligible to sit for the exam given by the ICA Council on Chiropractic Philosophy to obtain Diplomate, Philosophical Chiropractic Standards (DPhCS) status
Acupuncture	300-hour program that teaches the advantages and applications of acupuncture.	Eligible to sit for the ACA National Diplomate Exam to obtain the American Academy of Chiropractic Acupuncture (AACA) Diplomate status

Approved Chiropractic Specialty Programs

(1) Chiropractic Diagnostic Imaging: **(DACBR Diplomate American Chiropractic Board Radiology)** program administered by the American Chiropractic Association Council on Diagnostic Imaging (Roentgenology);

(2) Chiropractic Rehabilitation: **(DACRB - Diplomate American Chiropractic Rehabilitation Board)** program administered by the American Chiropractic Association Council on Chiropractic Physiological Therapeutics and Rehabilitation;

(3) Chiropractic Acupuncture: **(DABCA- Diplomate of the American Board of Acupuncture)** program administered by the American Chiropractic Association Council of Chiropractic Acupuncture;

(4) Chiropractic Clinical Nutrition: **(DACBN - Diplomate American Chiropractic Board Nutrition)** program administered by the American Chiropractic Association Council on Nutrition;

(5) Chiropractic Board of Clinical Nutrition: **(CBCN - Diplomate Chiropractic Board of Clinical Nutrition)** was created and operates under the auspices of the ACA with full autonomy in the areas of testing standards and procedures:

(6) Chiropractic Diagnosis and Management of Internal Disorders: (DABCI - **Diplomate American Board Chiropractic Internists)** program administered by the American Chiropractic Association Council on Family Practice;

(7) Chiropractic Orthopedics: **(DACO) - Diplomate Academy of Chiropractic Orthopedists, (DABCO)- Diplomate American Board Of Chiropractic Orthopedics,** are the two autonomous certification boards recognized and approved by the American Chiropractic Association.

(1) College of Forensic Sciences: **(DABFP)- Diplomate American Board of Forensic Professionals,** an autonomous certification board recognized and approved by the American Chiropractic Association and administered by the College of Forensic Sciences.

(2) Fellow of the Academy of Chiropractic Orthopedists: (FACO)- Accepted after successful completion of board certification. (DACO) or (DABCO)

(8) Chiropractic Clinical Neurology: program administered by

The American Chiropractic Neurology Board is an autonomous credentialing agency maintained by the ACA Council on Neurology and accredited by NOCA/NCCA. It is recognized by the ACA as the sole authority for credentialing in neurology for chiropractors. The American Chiropractic Neurology Board recognizes and maintains the previous certifications of the

(1) American Chiropractic Academy of Neurology (DACAN - Diplomate American Chiropractic Academy Neurology)

(2) Fellow of the American College of Clinical Neurology

(3) American Chiropractic Neurology Board (DACNB - Diplomate American Chiropractic Neurology Board)

The American Chiropractic Neurology Board maintains recognition of the following sub specialty neurology certifications

(1) **American Board of Electrodiagnostic Specialties** (FABES-Fellow of the American Board of Electrodiagnostic Specialties)

(2) **American Board of Vestibular Rehabilitation** (FABVR- Fellow of the American Board of Vestibular Rehabilitation)

(3) **American Board of Childhood Developmental Disorders** (FABCDD Fellow of the American Board of Childhood Developmental Disorders)

(4) **American College of Functional Neurology (FACFN-** Fellow of the American College of Functional Neurology)

(9) Chiropractic Sports Physician: (DACBSP) program administered by the American Chiropractic Association Council on Injuries and Physical Fitness.

(1) **Certified Chiropractic Sports Physician - CCSP** program administered by the American Chiropractic Association Sports Council;

(2) **Certificate in Chiropractic Thermography - CACBT** program administered by the American Chiropractic Association Council on Thermography;

Other Designations:
DACBOH - Diplomate American Chiropractic Board Occupational Health

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Hearings Re: Petition for Reinstatement of Revoked License

A.Joseph Scannell

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Hearings Re: Petition for Early Termination of Probation

A. Richard Monoson
B. Ramon Mendoza