BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF PUBLIC MEETING

September 20, 2012
10:00 a.m.
Radisson LAX
6225 West Century Blvd.
Los Angeles, CA 90045
(310) 670-9000

AGENDA

1. **OPEN SESSION** – Call to Order & Establishment of a Quorum
   Hugh Lubkin, D.C. Chair
   Heather Dehn, D.C., Vice Chair
   Francesco Columbu, D.C., Secretary
   Julie Elginer, Dr.PH
   Sergio Azzolino, D.C.

2. **Chair's Report**

3. **Approval of Minutes**
   July 19, 2012 Board Meeting

4. **Executive Officer's Report**
   A. Administration
   B. Budget – Cynthia Dines, DCA's Budget Office
   C. Licensing
   D. Enforcement

5. **Ratification of Approved License Applications**

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

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

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

9. **The Use of the Zerona Laser for Laser Lipo Treatment**

10. **Board Member Administrative Procedure Manual**

11. **Board Members Testifying as Experts**

12. **Physio Therapy Guidelines** – Misconduct

T (916) 263-5355
F (916) 263-5369
TT/TDD (800) 735-2929
Consumer Complaint Hotline
(866) 543-1311

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
www.chiro.ca.gov

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

14. **Government Affairs Committee Meeting Update** – Board may take action on any item on the attached Government Affairs Committee meeting agenda.

15. **Legislative Update**
    A. SB 924 (Price) – Patient Direct Access to Physical Therapist and Provider Corporations

16. **Hearings Re: Petition for Reinstatement of Revoked License**
    A. Alex Giventer

17. **Public Comment**

18. **Future Agenda Items**

19. **Closed Session**
    A. Deliberation on Disciplinary Decisions
       Pursuant to California Government Code Section 11126(c)(3)
    B. Pursuant to California Government Code Section 11126(e)
       1) Board of Chiropractic Examiners v. Carole M. Arbuckle
          Sacramento County Superior Court, Case No. 03AS00948
       2) Hugh Lubkin, D.C. v. Board of Chiropractic Examiners
          Workers' Compensation Case No. ADJ7361379

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.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF PUBLIC MEETING
ENFORCEMENT COMMITTEE
AUGUST 30, 2012
10:00 a.m.
2525 Natomas Park Drive, Suite 120
Sacramento, CA 95833

AGENDA

1. **CALL TO ORDER**

2. **Approval of Minutes**
   July 14, 2012

3. **Minimum Requirements for Patient Examinations**

4. **Proposed Omnibus Consumer Protection Regulations**

5. **Disciplinary Guidelines**

6. **Pain Management**

7. **Standards for Extracorporeal Shock Wave (ECSW) Therapy – Proposed New California Code of Regulations Section 318.2**
   - Presentation by Ed Cremata, D.C.

8. **Discipline by Another State – California Code of Regulations Section 304**
   - What Constitutes Discipline? (e.g., Voluntary Surrender Pending Disciplinary Action)

9. **Investigators: Authority to Inspect Premises – California Code of Regulations 306.3**
   - Failure to Comply: Consequences

10. **Advertisements – California Code of Regulations Section 311**
    - False & Misleading Advertising
    - Clear Identification of Licensee in Advertisement
    - Seminars that Promote Illegal Acts

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www.chiro.ca.gov

11. Law Violators – California Code of Regulations Section 314

- Clarification of Section
- Abuse Reporting Requirements (e.g., Spousal, Elder, and Child Abuse)

12. Name of Corporation – California Code of Regulations Section 367.7 & Corporations Code Section

13. Policy/Procedure Regarding "Hold for Discussion" on Proposed Decisions and Stipulated Settlements

14. Disciplinary Orders – Monitoring of Billing Practices by Certified Public Accountants (CPAs)

15. Disciplinary Orders – Timeframe for Taking and Passing Required Examinations (e.g., Ethics & Boundaries)

16. PUBLIC COMMENT

17. FUTURE AGENDA ITEMS

18. ADJOURNMENT

ENFORCEMENT COMMITTEE
Hugh Lubkin, D.C., Chair
Francesco Columbu, D.C.
Sergio Azzolino, D.C.

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

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

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BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF PUBLIC MEETING
GOVERNMENT AFFAIRS COMMITTEE
AUGUST 30, 2012
1:30 p.m.
2525 Natomas Park Drive, Suite 120
Sacramento, CA 95833

AGENDA

1. **CALL TO ORDER**
2. **Physical Therapy: Direct Access: Other States' Laws**
3. **BCE Mission Statement**
4. **Government Relations: Strategic Plan**
5. **Legislative Bill Tracking**
6. **Policies and Procedures for Preparing Legislative Bill Analyses**
7. **Policies and Procedures for Determining Positions and Testifying on Legislation**
8. **BCE's Attendance at Other Boards' Meetings**
9. **BCE Interest in Having Presentations at Board Meetings by State Associations and Colleges**
10. **BCE Interest in Issuing Proclamations to Recognize Individuals for Their Achievements Consistent with the Board's Consumer Protection Mission**
11. **PUBLIC COMMENT**
12. **FUTURE AGENDA ITEMS**
13. **ADJOURNMENT**

GOVERNMENT AFFAIRS COMMITTEE
Hugh Lubkin, D.C., Chair
Julie Elginer, Dr.PH
Heather Dehn, D.C.

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BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES

July 19, 2012
State Capitol
First Floor, Senate Committee Room 113
Sacramento, CA 95814

DRAFT

Board Members Present
Hugh Lubkin, D.C., Chair
Heather Dehn, D.C., Vice Chair
Francesco Columbu, D.C., Secretary
Julie Elginer, Dr. PH
Sergio Azzolino, D.C.

Staff Present
Robert Puleo, Executive Officer
Spencer Walker, Staff Counsel
Linda Shaw, Staff Services Manager
Sandra Walker, Staff Services Manager
Dixie Van Allen, Associate Governmental Program Analyst
Alfonso Ramirez, Retired Annuitant
Ray Delaney, Management Services Technician
Valerie James, Office Technician

Call to Order
Dr. Lubkin called the meeting to order at 11:02 a.m.

Roll Call
Dr. Columbu called the roll. All members were present.

Chair's Report
Dr. Lubkin announced Dr. Dehn as Vice Chair, and reported on recent activities relating to Board matters.

Approval of Minutes
May 24, 2012 Board Meeting

MOTION: DR. ELGINER MOVED TO APPROVE THE MINUTES
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Board Member Training on the Bagley-Keene Open Meeting Act and Other Relevant Laws
Mr. Walker provided the Board members training on the Bagley-Keene Open Meeting Act and other relevant laws.

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

Ratification of Approved License Applications

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

Ratification of Approved Continuing Education Providers

MOTION: DR. ELGINER MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDERS
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED
The Board ratified the attached list of approved continuing education providers incorporated herein (Attachment B).

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

Ratification to Waive Two Year Requirement to Restore a Canceled License

MOTION: DR. LUBKIN MOVED TO RATIFY THE RECOMMENDATION TO WAIVE THE TWO YEAR REQUIREMENT TO RESTORE A CANCELED LICENSE
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED
The Board ratified the attached list of approved continuing education providers incorporated herein (Attachment C).

Enforcement Committee Meeting Update
Dr. Lubkin summarized what was discussed at the July 14, 2012 Enforcement Committee Meeting.

Legislative Update

A. SB 352 (Huff) – Chiropractors
Dr. Lubkin reported SB 352 was dropped due to the board's new laser regulation.

B. SB 924 (Price) – Patient Direct Access to Physical Therapist and Provider Corporations
Dr. Lubkin discussed the details of SB 924.

DRAFT

MOTION: DR. LUBKIN MOVED TO CHANGE FROM A WATCH POSITION TO AN OPPOSE UNLESS AMENDED POSITION ON SB 924.
SECOND: DR. COLUMBU SECONDED THE MOTION.

Public Comment
Dr. Charles Davis representing the International Chiropractic Association of California (ICAC) expressed their concerns with the bill and stated ICAC had taken an oppose unless amended position on SB 924.

Dr. Kassie Donoghue representing the California Chiropractic Association (CCA) expressed their concerns with the bill and stated CCA had taken an oppose position on SB 924.

VOTE: 5-0
MOTION CARRIED

C. SB 1488 (Yee) – Healing Arts: Traditional Chinese Medicine Traumatologisit Certification
Dr. Lubkin reported that SB 1488 failed passage.

Regulation Update
A. Use of Lasers
Dr. Lubkin reported that the laser regulation has been approved by the Office of Administrative Law and became law on July 14, 2012

Board Meeting Schedule
It was agreed to change the board meeting locations for the next two board meetings; September will be in Los Angeles or Burbank and December in Sacramento.

Due to time, Dr. Lubkin moved to item 15 and 16 on the agenda.

Public Comment
None

Future Agenda Items
Dr. Azzolino requested chiropractic corporation names be discussed. Dr. Lubkin indicated that this can be discussed at a Committee meeting.

Dr. Lubkin requested a special Board meeting to discuss the Governor's reorganization plan within the next 10-14 days in Sacramento.

Dr. Azzolino requested traveling chiropractors be discussed. After discussion it was determined that the Act prohibits temporary licensure and the only means for an out-of-state chiropractor is to apply for reciprocity.

Dr. Dehn requested the use of 'Groupons' to be discussed at a future meeting.

Dr. Lubkin moved back to item 13 on the agenda.

DRAFT

Hearings Re: Petition for Reinstatement of Revoked License
Administrative Law Judge Jonathan Lew presided over and Deputy Attorney General Brian Turner appeared on behalf of the people of the State of California on the following hearing:

A. Arthur J. Haberman

Closed Session
The Board went into closed session for deliberation on Board related matters.

Adjournment
Dr. Lubkin adjourned the meeting at 2:00 p.m.

DRAFT

(ATTACHMENT A)
Approval By Ratification of Formerly Approved License Applications
May 1, 2012 – June 30, 2012

Name (First, Middle, Last)			Date Issued	DC#
Catherine	Marie	Nolan-Belanger	5/4/2012	**32299**
Michael	Charles	Carey	5/7/2012	**32300**
Jessica		Goodrich	5/7/2012	**32301**
Kelli	Mariko	Kakita	5/7/2012	**32302**
Abigail	Rachelle	Longner	5/7/2012	**32303**
Angela	Marie	McCracken	5/7/2012	**32304**
Bonnie	Kristin	Ahlf	5/10/2012	**32305**
Karen	Sue	Bloch	5/10/2012	**32306**
Aydin	Bahman	Khoshkbariie	5/10/2012	**32307**
Fadi	George	Al-Selhi	5/16/2012	**32308**
Lidia		Alzate	5/16/2012	**32309**
Lucas	Daniel	Chesser	5/16/2012	**32310**
Jose	Moises	Barajas	5/17/2012	**32311**
Grant	Michael	Dobson	5/17/2012	**32312**
Alina	Janine	Estonactoc	5/17/2012	**32313**
Kyle	Rene	Moser	5/17/2012	**32314**
Jenna		Nalbandian	5/18/2012	**32315**
Roya	Rahimzadeh	Moghadam	5/18/2012	**32316**
Duane	Thomas	Walker	5/18/2012	**32317**
Virginia	Marie	Arnold	5/18/2012	**32318**
Lloyd	Toshio	Kuribayashi	5/18/2012	**32319**
Elizabeth	Anne	Volk	5/30/2012	**32320**
Hajime		Yajima	5/30/2012	**32321**
Christina	Jeanette	Cooke	5/31/2012	**32322**
Mark	Spencer	Gunn	5/31/2012	**32323**
Sung	Hee	Hong	5/31/2012	**32324**
Han	Seong	Kim	5/31/2012	**32325**
Lisa	Paige	Leary	5/31/2012	**32326**
Marc	Anthony	Papantonio	6/5/2012	**32327**
Joshua	Carl	Reichardt	6/5/2012	**32328**
Regalado	Pagtakhan	Reyes	6/5/2012	**32329**
Rachael	Melissa	Stohrer	6/5/2012	**32330**
Shaun	Jameson	Wiebe-Bailey	6/5/2012	**32331**
Adam	Ryan	Abughalya	6/8/2012	**32332**

DRAFT

Sevan		Amirian	6/8/2012	**32333**
Arevik	Victoria	Aramian	6/8/2012	**32334**
James	Dylan	Casteel	6/8/2012	**32335**
Yoonhee	Catalina	Choi	6/8/2012	**32336**
Tiffany	Wonting	Choy-Unruh	6/8/2012	**32337**
Sayyedah	Fatimah Zahra	Esfahanizadeh	6/8/2012	**32338**
Bridget	Ann	Gutzmer	6/8/2012	**32339**
Ashyanna		Keli	6/8/2012	**32340**
Steven	Ronald	Lampe	6/8/2012	**32341**
Steven	Matthew	Peters	6/8/2012	**32342**
Sara	Rose	Santelli	6/8/2012	**32343**
Aaron	Joseph	Statner	6/8/2012	**32344**
Mehdi		Panahi	6/20/2012	**32345**
Jason	Daniel	Radtke	6/20/2012	**32346**
Ryan	Sangbum	Hur	6/21/2012	**32347**
Ivy		Khachatourian	6/21/2012	**32348**
Laura		Ho	6/21/2012	**32349**
Alison	Hannah	Knight	6/21/2012	**32350**
Gordon		Seto	6/21/2012	**32351**
Ghazaleh		Tabrizi	6/21/2012	**32352**
Sharese	Veronica	Torres	6/21/2012	**32353**
Najwan		Al-Saiegh	6/22/2012	**32354**
Jared	Alan	Newman	6/29/2012	**32355**

DRAFT

(ATTACHMENT B)
Approval by Ratification of New Continuing Education Providers

CONTINUING EDUCATION PROVIDERS	DATE APPROVED
1. Kurt M Alexander, DC	7/1/2012
2. Judy Dragon	7/1/2012

DRAFT

(ATTACHMENT C)
Recommendation to Waive Two Year Requirement
on Restoration of a Cancelled License

Name (Last, First MI)	License No.	Cancellation Date
Doolittle, Tim	25320	September 30, 2011
Pratt, Sherri	30397	September 30, 2011

DRAFT

State Board of Chiropractic Examiners

July 1, 2012

FY 2012-13

PY 18

BOARD MEMBERS (7)

Robert Puleo
Executive Officer
620-110-8862-001

Alfonso Ramirez (RA)
Assoc. Gov. Program Analyst
620-110-5393-907

SSM I
Sandra Walker
Compliance Manager
620-110-4800-006

Supervising Special Investigator I
Keith Powell
Field Investigations Manager
620-110-8549-001

SSM I
Linda Shaw
Admin/Licensing/CE Manager
620-110-4800-008

Compliance Unit

Lavella Matthews
Assoc. Gov. Program Analyst
620-110-5393-002

Christina Bell
Assoc. Gov. Program Analyst
620-110-5393-005

Beckie Rust
Assoc. Gov. Program Analyst
620-110-5393-004

Christina Villanueva
Assoc. Gov. Program Analyst
620-110-5393-800

Julianne Vernon
Staff Services Analyst
620-110-5157-004

Field Operations North

Maria Martinez
Special Investigator
620-110-8612-001

Denise Robertson
Special Investigator
620-110-8612-002

Field Operations South

Yanti Soliman
Special Investigator
620-110-8612-003

Policy/Admin

Dixie Van Allen
Assoc. Gov. Program Analyst
620-110-5393-003

Admin/Licensing

Marlene Valencia
Staff Services Analyst
620-110-5157-008

Tammi Pitto
Staff Services Analyst
620-110-5157-007

Ray Delaney
Management Services Technician
620-110-5278-001

Vacant
Office Technician (T)
620-110-1139-001

Valerie James
Office Technician (T)
620-110-1139-008

Licensing/Continuing Education

Genie Mitsuhara
Staff Services Analyst
620-110-5157-005

Executive Officer _____

Personnel Office _____

Rev. 4/20/12

BOARD OF CHIROPRACTIC EXAMINERS
LICENSE STATISTICAL DATA

FY 2011/12 – FY 2012/13 COMPARISON

LICENSE TYPE	TOTAL LICENSES 9/1/2011	TOTAL LICENSES 9/1/2012	NET VARIANCE
CHIROPRACTOR	13,737	13,498	-239
SATELLITES	3,872	4,096	+224
CORPORATIONS	1,323	1,317	-6
REFERRALS	31	30	-1
TOTALS	18,963	18,941	-22

APPLICATIONS RECEIVED AND PROCESSED
JULY 1, 2012 – AUGUST 30, 2012

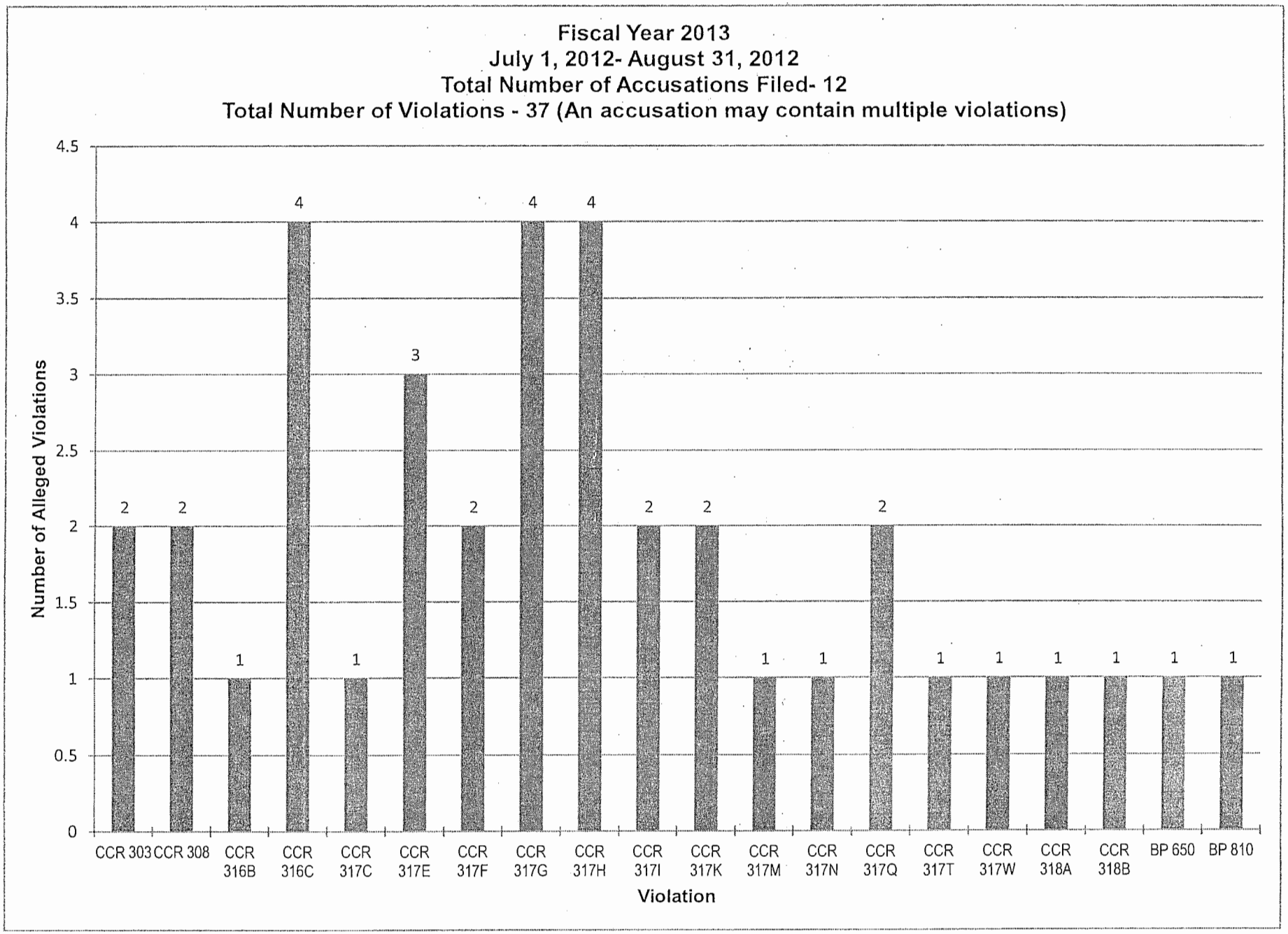
APPLICATION TYPE	RECEIVED	APPROVED	DENIED	WITHDRAWN	PENDING
INITIAL	59	58	1	0	116
RECIPROCAL	1	0	0	0	9
RESTORATION	37	37	0	0	6
CORPORATION	12	9	0	0	24

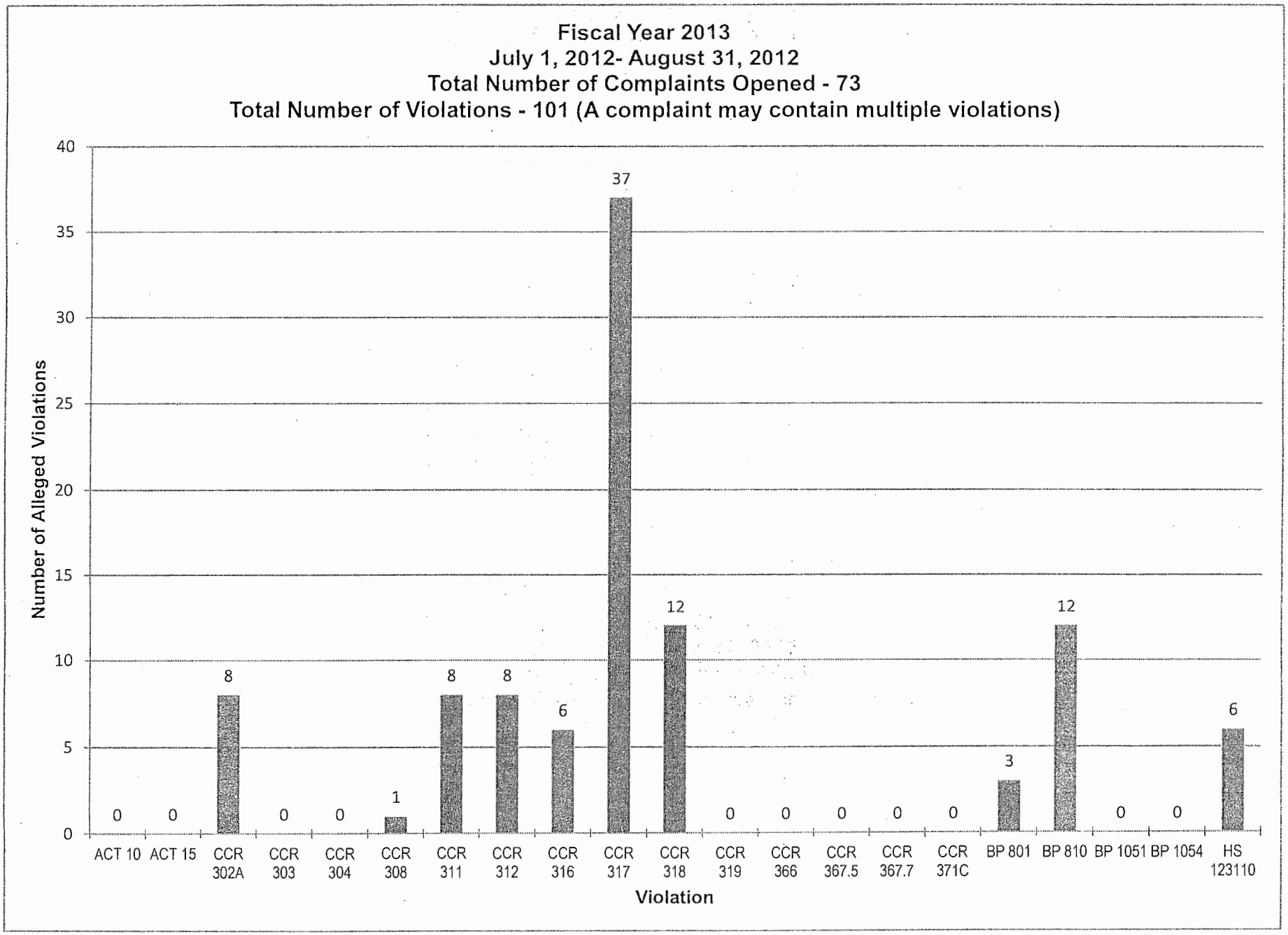
Compliance Unit Statistics

Fiscal Year	08/09	09/10	10/11	11/12	12/13*
Complaints					
Received	655	519	497	391	73
Pending	410	203	137	125	124
Closed with Insufficient Evidence	206	136	96	89	12
Closed with No Violation	223	129	135	93	16
Closed with Merit	275	158	140	120	25
Letter of Admonishment	n/a	5	4	1	0
Citations and Fines Issued (Total Fine Amount)	41($19,200)	78($25,700)	47($12,700)	26($37,400)	5($3,200)
Accusations					
Filed	64	73	68	41	12
Pending	105	117	130	99	88
Revoked	10	18	17	14	3
Revocation Stayed: Probation	4	20	26	20	7
Revocation Stayed: Suspension and Probation	7	8	9	12	2
Suspension	0	0	0	0	0
Suspension Stayed: Probation	0	1	0	0	0
Suspension and Probation	2	0	0	0	0
Voluntary Surrender of License	2	7	9	7	1
Dismissed/Withdrawn	5	18	10	21	1
Statement of Issues					
Filed	3	3	4	5	1
Denied	1	0	0	0	0
Probationary License	4	7	3	4	1
Withdrawn at Applicant's Request	0	0	0	0	0
Granted	0	0	1	0	0
Petition for Reconsideration					
Filed	1	3	0	2	0
Granted	0	0	0	0	0
Denied	1	2	0	0	0
Petition for Reinstatement of License					
Filed	13	9	7	7	0
Granted	4	4	2	2	0
Denied	11	11	10	6	0
Petition for Early Termination of Probation					
Filed	6	6	4	22	0
Granted	6	1	2	32	0
Denied	2	2	4	24	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	11	32	13	6	0
Revoked	3	7	2	8	1
Probation Cases					
Active	140	134	138	142	149

* FY 12/13: July 1, 2012 – August 31, 2012

Revised: September 10, 2012


Fiscal Year 2013
July 1, 2012- August 31, 2012
Total Number of Accusations Filed- 12
Total Number of Violations - 37 (An accusation may contain multiple violations)
Number of Alleged Violations
4.5
4
3.5
3
2.5
2
1.5
1
0.5
0
2
2
1
4
1
3
2
4
4
2
2
1
1
2
1
1
1
1
1
1
CCR 303
CCR 308
CCR 316B
CCR 316C
CCR 317C
CCR 317E
CCR 317F
CCR 317G
CCR 317H
CCR 317I
CCR 317K
CCR 317M
CCR 317N
CCR 317Q
CCR 317T
CCR 317W
CCR 318A
CCR 318B
BP 650
BP 810
Violation


Fiscal Year 2013
July 1, 2012- August 31, 2012
Total Number of Complaints Opened - 73
Total Number of Violations - 101 (A complaint may contain multiple violations)
Number of Alleged Violations
40
35
30
25
20
15
10
5
0
0
0
8
0
0
1
8
8
6
37
12
0
0
0
0
0
3
12
0
0
6
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 366
CCR 367.5
CCR 367.7
CCR 371C
BP 801
BP 810
BP 1051
BP 1054
HS 123110
Violation

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):

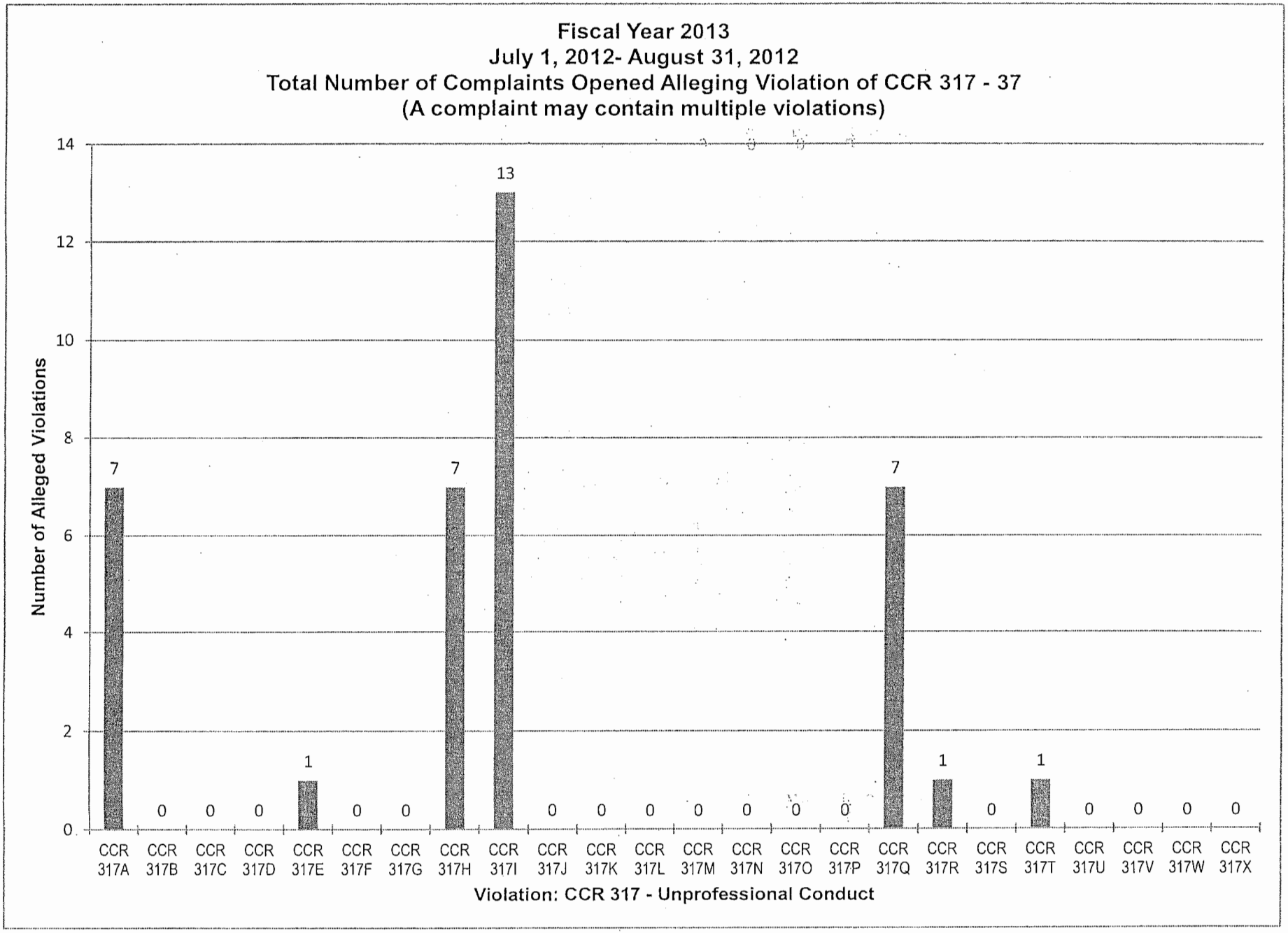
302(a) – Scope of Practice
302.5 – Use of Laser
303 – Filing of Addresses
304 – Discipline by Another State
308 – Display of License
311 – Advertisements
312 – Illegal Practice
316 – Responsibility for Conduct on Premises
317 – Unprofessional Conduct
318 – Chiropractic Patient Records/Accountable Billing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

Business and Professions Code (BP):

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

Health and Safety Code (HS):

123110 – Patient Access to Health Records


Fiscal Year 2013
July 1, 2012- August 31, 2012
Total Number of Complaints Opened Alleging Violation of CCR 317 - 37
(A complaint may contain multiple violations)
Number of Alleged Violations
14
12
10
8
6
4
2
0
7
0
0
0
1
0
0
7
13
0
0
0
0
0
0
0
7
1
0
1
0
0
0
0
CCR 317A
CCR 317B
CCR 317C
CCR 317D
CCR 317E
CCR 317F
CCR 317G
CCR 317H
CCR 317I
CCR 317J
CCR 317K
CCR 317L
CCR 317M
CCR 317N
CCR 317O
CCR 317P
CCR 317Q
CCR 317R
CCR 317S
CCR 317T
CCR 317U
CCR 317V
CCR 317W
CCR 317X
Violation: CCR 317 - Unprofessional Conduct

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

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | EDMUND G. BROWN JR., GOVERNOR

MEMORANDUM

Date: September 5, 2012

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 20, 2012, public meeting.

Between July 1, 2012 and August 31, 2012, 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, 2012 – August 31, 2012

Name (First, Middle, Last)			Date Issued	DC#
Jeffrey	Forrest	Armstrong	7/5/2012	**32356**
Jonathan	David	Diaz	7/5/2012	**32357**
Andrew	Robert	Dyer	7/5/2012	**32358**
Derrick	Jeffrey	Giles	7/5/2012	**32359**
Ginger	Ann	Kastens	7/5/2012	**32360**
Anthony	David	Mills	7/5/2012	**32361**
Kyle	Kamran	Jahangiri	7/10/2012	**32362**
Katie	Ruth	Ngan	7/11/2012	**32363**
Shadi		Rahmani	7/11/2012	**32364**
Peter		Salama	7/11/2012	**32365**
Matthew	Raymond	Skalski	7/17/2012	**32366**
Karo		Ter-Nersesyan	7/17/2012	**32367**
Kombiz	Klam	Pourteymoor	7/24/2012	**32368**
Nicholas	Joseph	Wirtz	7/24/2012	**32369**
Bethanne	Marie	Baretich	7/31/2012	**32370**
Dennis	Hamilton	Barker	7/31/2012	**32371**
Shawn	Christopher	Borges	7/31/2012	**32372**
Michael	Fischer	Cady	7/31/2012	**32373**
Angela	Marie	Caraza	7/31/2012	**32374**
Jeffrey	Alexander	Chan	7/31/2012	**32375**
Amber	Marie	Eckel	7/31/2012	**32376**
Austin	Jay	Komarek	7/31/2012	**32377**
Tan	T	Nguyen	8/3/2012	**32378**
Cameron	Thomas	Quillian	8/3/2012	**32379**
Michael	Casey	Schmitz	8/3/2012	**32380**
Aaron	Matthew	Ayala	8/7/2012	**32381**
Kristin	Marie	Beierle	8/7/2012	**32382**
Jenny	Brook	Merkel	8/7/2012	**32383**
Matthew	Benjamin	Murphy	8/7/2012	**32384**
Gary	Peter-James	Van Lue	8/8/2012	**32385**
Dan	Mitchell	Oliver	8/8/2012	**32386**
Jonathan	David	Block	8/8/2012	**32387**
Joshua	Paul	Leach	8/8/2012	**32388**
Jasmine	Lee	Alden	8/9/2012	**32389**
Gloria	Zapien	Andrade	8/9/2012	**32390**

Daniel	Lazar	Katrikh	8/9/2012	**32391**
Ahmed	Ezzat	Korayem	8/9/2012	**32392**
Roma	Jean	Nall	8/10/2012	**32393**
Heather	Nadine	Vaughn	8/10/2012	**32394**
Nathan	Jerome	Sermersheim	8/10/2012	**32395**
Jeremy	Tjandra	Subadya	8/10/2012	**32396**
Richard	William	Rowley	8/21/2012	**32397**
JB		Silver	8/21/2012	**32398**
Jeremy	Elias	Sontag	8/21/2012	**32399**
Brian	James	Van Aken	8/21/2012	**32400**
Leslie	Judith	Veliz	8/21/2012	**32401**
Teja	Carisa	Fox	8/24/2012	**32402**
Jong	Han	Kim	8/24/2012	**32403**
Ricardo		Marquetti	8/24/2012	**32404**
Katherine	Ruth	McDermont	8/24/2012	**32405**
Rodrigo	Ta'Vora	Oliveira	8/24/2012	**32406**
Amy	Marie	Shu	8/24/2012	**32407**
Manita		Verma	8/24/2012	**32408**
Corinne	Renee	Skutley	8/24/2012	**32409**
Roshani		Desai	8/29/2012	**32410**
Cory	Patrick	Barker	8/30/2012	**32411**
Kristy	Lynn	Kahn	8/30/2012	**32412**
Sue	Ok	Lee	8/30/2012	**32413**
Nasim		Pedram	8/31/2012	**32414**
Eugene		Plotitsa	8/31/2012	**32415**

.STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | EDMUNC G. BROWN JR., GOVERNOR

MEMORANDUM

Date: September 4, 2012

To: BOARD MEMBERS

From: Robert Puleo
Executive Officer

Subject: **Ratification for New Continuing Education Providers**

This is to request that the Board ratify the continuing education providers at the public meeting on September 20, 2012.

CONTINUING EDUCATION PROVIDERS	DATE APPROVED
1. VITAL Imaging	9/1/2012
2. Emergency Care & Safety Institute (ECSI)	9/1/2012
3. Arthur Faygenholtz, D.C.	9/1/2012
4. The Chiropractic Seminar Group	9/1/2012

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | EDMUND G. BROWN JR., GOVERNOR

MEMORANDUM

Date: September 13, 2012

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, 2012 and August 31, 2012, staff reviewed and confirmed that one (1) applicant did not meet all statutory and regulatory requirements for licensure. The applicant has not yet appealed the decision but is still within the 60-days time period.

At this time, ratification is not necessary.

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

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | EDMUND G. BROWN JR., GOVERNOR

MEMORANDUM

Date: September 13, 2012

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 20, 2012, 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
Sihock, Franklin	23985	May 31, 2011

Board of Chiropractic Examiners
California Code of Regulations

Section 302.5

Use of Laser

(a) A duly licensed chiropractor and any person under their direct or indirect supervision, as defined in section 312, shall:

(1) Not use any laser in the practice of chiropractic which has not been properly approved or cleared by the United States Food and Drug Administration (FDA).

(2) Not market or advertise the use of a laser or use a laser for purposes other than treatment consistent with section 302 and the product's FDA approval or clearance.

(3) Follow the manufacturer's specified guidelines for the safe use of laser.

(4) Comply with all state and federal laws governing the use of lasers in clinical settings.

(b) Nothing in this section shall be construed to authorize the use of a laser by a chiropractor outside of the chiropractic scope of practice. This includes, but is not limited to, laser ablation or surgical procedures, and laser treatment of allergies.

(c) Any violation of this section may constitute unprofessional conduct and the licensee shall be subject to discipline by the Board.

State of California

BOARD OF CHIROPRACTIC EXAMINERS
BOARD MEMBER
ADMINISTRATIVE MANUAL

Adopted October 2007
Revised April 23, 2009

Edmund G. Brown Jr., Governor
State of California

MISSION STATEMENT

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

BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

Members of the Board

Hugh Lubkin, D.C., Chair
Francesco Columbu, D.C., Secretary
Julie A. Elginer, Dr.PH, Public Member
Sergio Azzolino, D.C.
Heather Dehn, D.C.

Executive Officer
Robert C. Puleo

This procedure manual is a general reference including a review of some important laws, regulations, and these basic Board policies in order to guide the actions of the Board members and ensure Board effectiveness and efficiency. The Chiropractic Initiative Act of 1922 (the Act) will be referenced and summarized throughout this procedure manual.

This Administrative Procedure Manual, regarding Board Policy, can be amended by four affirmative votes of any current or future Board.

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CHAPTER 1. Introduction

Overview

The Board of Chiropractic Examiners (Board) was created on December 21, 1922, through an initiative measure approved by the electors of California on November 7, 1922.

The Act states it is... "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith..."

The powers and authority of the Board is specifically defined in Section 4 of the Act. In general, the board is a policy-making and administrative review body comprised pursuant to the provisions of Section 1 of the Act, comprised of seven members, five professional and two public, each appointed by the Governor. The Board's paramount purpose is to protect California consumers through the enforcement of the Act, other applicable laws and the California Code of Regulations related to the Practice of Chiropractic, identified herein as the Board's regulations.

State of California Acronyms

ALJ	Administrative Law Judge
AG	Office of the Attorney General
APA	Administrative Procedure Act
B&P	Business and Professions Code
CATS	Computer Assisted Testing Service
CCCP	California Code of Civil Procedure
CCR	California Code of Regulations
CLEAR	Council on Licensure Enforcement and Regulations
DAG	Deputy Attorney General
DOF	Department of Finance
DOI	Department of Insurance
DPA	Department of Personnel Administration
SAM	State Administrative Manual
SCIF	State Compensation Insurance Fund
SPB	State Personnel Board
VCGCB	Victim Compensation and Government Claims Board

General Rules of Conduct

All Board members shall act in accordance with their oath of office, and shall conduct themselves in a courteous, professional and ethical manner at all times. The Board serves at the pleasure of the governor, and shall conduct their business in an open manner, so that the public that they serve shall be both informed and involved, consistent with the provisions of the Bagley-Keene Open Meeting Act and all other governmental and civil codes applicable to similar boards within the State of California.

- Board members shall comply with all provisions of the Bagley-Keene Open Meeting Act.
- Board members shall not speak or act for the Board without proper authorization.
- Board members shall not privately or publicly lobby for or publicly endorse, or otherwise engage in any personal efforts that would tend to promote their own personal or political views or goals, when those are in direct opposition to an official position adopted by the Board.
- Board members shall not discuss personnel or enforcement matters outside of their official capacity in properly noticed and agendized meetings or with members of the public or the profession.
- Board members shall never accept gifts from applicants, licensees, or members of the profession while serving on the Board.
- Board members shall maintain the confidentiality of confidential documents and information related to board business.
- Board members shall commit the time and prepare for Board responsibilities including the reviewing of board meeting notes, administrative cases to be reviewed and discussed, and the review of any other materials provided to the board members by staff, which is related to official board business.
- Board members shall recognize the equal role and responsibilities of all Board members.
- Board members shall act fairly, be nonpartisan, impartial, and unbiased in their role of protecting the public and enforcing the Chiropractic Initiative Act.
- Board members shall treat all consumers, applicants and licensees in a fair, professional, courteous and impartial manner.

- Board members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.

- Board members shall not use their positions on the Board for personal, familial, or financial gain. Any employment subsequent to employment as a board member shall be consistent with Executive Order 66-2.

CHAPTER 2. Board Members & Meeting Procedures

Membership
(§1 Initiative Act)

The Board consists of seven members appointed by the Governor. Each member must be a citizen of the United States and have been a resident of California for five years. Two members must be public members. Each licensee member must have at least five years of licensure in this state prior to appointment. Each licensee member must have pursued a resident course in an approved chiropractic school or college, and must be a graduate thereof and hold a diploma therefrom.

No more than two persons can serve simultaneously as members of the Board whose first diplomas were issued by the same school or college of chiropractic. Nor can more than two members be residents of any one county of the state. No person is eligible for appointment to the Board who is currently or within one year of holding a position as an administrator, policy Board member, or a paid employee of any chiropractic school or college.

Board Meetings and Offices
(§6 Initiative Act)

The full Board must meet at least twice each calendar year.

The Board's office is located in Sacramento. The Board may establish additional offices in Los Angeles and San Francisco.

Board Meetings
(Government Code Section 11120 et seq. - Bagley-Keene Open Meeting Act)

The Board, as a statement of policy, shall comply with the provisions of the Bagley-Keene Open Meeting Act, and conduct their business in accordance with Robert's Rules of Order, as long as that does not conflict with any superseding laws or regulations.

Due notice of each meeting and the time and place thereof must be given to each member in the manner provided by the Bagley-Keene Open Meeting Act.

The Board may call a special meeting at any time in the manner provided by the Bagley-Keene Open Meeting Act, Government Code Section 11125.4.

Quorum
(§3 Initiative Act)

A majority of the Board (four members) will constitute a quorum. An affirmative vote of four members of the Board is required to carry any motion or resolution, to adopt any rule, or to authorize the issuance of any license provided for in the Act.

Board Member Attendance at Board Meetings
(Board Policy)

Being a member of the Board is a serious commitment to the governor, and the people of the State of California. Board members shall attend a minimum of 75% of all scheduled assigned committee meetings and full session Board meetings. In extraordinary circumstances, the Chair may excuse a Board member from this obligation. If a member is unable to attend, he or she must contact the Board Chair or the Executive Officer, and provide a written explanation of their absence.

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

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This Act governs meetings of the state regulatory Boards and meetings of committees of those Boards where the committee consists of more than two members. It specifies meeting notice, agenda requirements, and prohibits discussing or taking action on matters not included on the agenda. If the agenda contains matters which are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Agenda Items
(Board Policy)

Board members may submit agenda items for a future Board meeting during the "Future Agenda Items" section of a Board meeting or directly to the Board Secretary 15 days prior to a Board meeting. To the extent possible, the Board Secretary will calendar each Board member's request on a future Board meeting.

In the event of a conflict, the Board Secretary will discuss the proposed agenda item with the Board Chair, and the Board Chair shall make the final decision. The Board Secretary will work with the Executive Officer to finalize the agenda.

If a Board member requests an item be placed on the agenda, and that request can not be complied with at the immediate upcoming meeting, then

the requested agenda item shall be placed on the next regularly scheduled meeting or into committee and shall never be postponed more than two meetings prior from being placed on the agenda and open for discussion by the Board *or* Committee.

Notice of Meetings
(Government Code Section 11120 et seq.)

Meeting notices, including agendas, for Board meetings will be sent to persons on the Board's mailing list at least 10 calendar days in advance, as specified in the Bagley-Keene Open Meeting Act. The notice shall include a staff person's name, work address, and work telephone number who can provide further information prior to the meeting.

Notice of Meetings Posted on the Internet
(Government Code Section 11125 et seq.)

Meeting notices shall be posted on the Board's web site at least 10 days in advance of the meeting, and include the name, address, and telephone number of staff who can provide further information prior to the meeting.

Mail Ballots
(Government Code Section 11500)

The Board must approve any proposed decision or stipulation before the formal discipline becomes final and the penalty can take effect.

Proposed stipulations and decisions are mailed to each Board member for his or her vote. For stipulations, a background memorandum from the assigned deputy attorney general accompanies the mail ballot. A two-week deadline generally is given for the mail ballots for stipulations and proposed decisions to be completed and returned to the Board's office.

Holding Disciplinary Cases for Board Meetings
(Board Policy)

When voting on mail ballots for proposed disciplinary decisions or stipulations, a Board member may wish to discuss a particular aspect of the decision or stipulation before voting. If this is the case, the ballot must be marked "hold for discussion," and the reason for the hold must be provided on the mail ballot. This allows staff the opportunity to prepare information being requested.

If two votes are cast to hold a case for discussion, the case is set aside and not processed (even if four votes have been cast on a decision). Instead the case is scheduled for a discussion during a closed session at the next Board meeting.

If the matter is held for discussion, staff counsel will preside over the closed session to assure compliance with the Administrative Procedure Act and Open Meeting Act.

If the Board member is comfortable voting on the matter, but wishes to discuss the policy behind the decision or case, the ballot should be marked "Policy Issue for Discussion. I have voted above. Issue: _____." The Executive Officer will respond directly to the member. If still unresolved or if the matter is to be referred to the Board, the policy issue will be placed on the agenda for discussion at the next Enforcement Committee Meeting.

Record of Meetings
(Board Policy)

The minutes are a summary, not a transcript, of each Board meeting. They shall be prepared by Board staff and submitted for review by Board members before the next Board meeting.
Board minutes must be approved or disapproved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting. The recordings of each board meeting shall be maintained and not destroyed.

Tape Recording
(Government Code Section 11124.1(b))

The meeting may be audio and video tape recorded by the public or any other entity in accordance with the Bagley-Keene Open Meeting Act, the members of the public may tape record, videotape or otherwise record a meeting unless they are disruptive to the meeting and the Chair has specifically warned them of their being disruptive, then the Chair may order that their activities be ceased.

The board may place audio and video recorded public board meetings on its web site at www.chiro.ca.gov.

Meeting Rules
(Board Policy)

The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act or other state laws or regulations), as a guide when conducting the meetings. Questions of order are clarified by the Board's legal counsel.

Public Comment
(Board Policy)

Public comment is always encouraged and allowed, however, if time constraints mandate, the comments may be limited to three minutes per person. Due to the need for the Board to maintain fairness and neutrality when performing its adjudicative function, the Board shall not receive any information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending or criminal administrative action.

1. If, during a Board meeting, a person attempts to provide the Board with any information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person must be instructed to refrain from making such comments.

2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:

    a. Where the allegation involves errors of procedure or protocol, the Board may designate either its Executive Officer or a Board employee to review whether the proper procedure or protocol was followed and to report back to the Board.
    b. Where the allegation involves significant staff misconduct, the Board may designate one of its members to review the allegation and to report back to the Board.

3. The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting. The Board accepts the conditions established in the Bagley-Keene Open Meeting Act and appreciates that at times the public may disapprove, reprimand, or otherwise present an emotional presentation to the Board, and it is the Board's duty and obligation to allow that public comment, as provided by law.

CHAPTER 3. Travel & Salary Policies & Procedures

Travel Approval
(Board Policy)

Board members shall receive Executive Officer approval for all travel and salary or per diem reimbursement, except for regularly scheduled Board, committee, and conference meetings to which a Board member is assigned.

Travel Arrangements
(Board Policy)

Board members should attempt to make their own travel arrangements and are encouraged to coordinate with the Board liaison on lodging accommodations.

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

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

Travel Claims
(SAM Section 700 et seq.)

Rules governing reimbursement of travel expenses for Board members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The Board Liaison maintains these forms and completes them as needed.

The Executive Officer's travel and per diem reimbursement claims shall be submitted to the Board Chair for approval.

It is advisable for Board members to submit their travel expense forms immediately after returning from a trip and not later than thirty days following the trip.

Salary Per Diem
(§1 Initiative Act and B&P Code Section 103)

Each member of the Board shall receive a per diem in the amount provided in Section 103 of the Business and Professions (B&P) Code. Board members fill non-salaried positions, but are paid $100 per day for each meeting day and are reimbursed travel expenses.

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board members is regulated by the B&P Code Section 103. Board members are paid out of the funds of the Board, as provided for within the Chiropractic Initiative Act.

In relevant part, B&P Code Section 103 provides for the payment of salary per diem for Board members "for each day actually spent in the discharge of official duties," and provides that the Board member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

Salary Per Diem
(Board Policy)

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

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board members except for attendance at official Board or committee meetings, unless a substantial official service is performed by the Board member.

   Attendance at gatherings, events, hearings, conferences or meetings other than official Board or committee meetings in which a substantial official service is performed the Executive Officer shall be notified and approval shall be obtained from the Board Chair prior to Board member's attendance.

2. The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Board or committee meeting until that meeting is adjourned.

   If a member is absent for a portion of a meeting, hours are then reimbursed for time actually spent. Travel time is not included in this component.

3. For Board-specified work, Board members will be compensated for actual time spent performing work authorized by the Board Chair. This may also include, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences, such as the Federation of Chiropractic Licensing Boards (FCLB). Work also includes preparation time for Board or committee meetings and reading and deliberating mail ballots for disciplinary actions.

4. Reimbursable work does not include miscellaneous reading and information gathering unrelated board business and not related to any

meeting, preparation time for a presentation and participation at meetings not related to official participation of the members duties with the Board.

5. Board members may participate on their own (i.e., as a citizen or professional) at an event or meeting but not as an official Board representative unless approved in writing by the Chair. Requests must be submitted in writing to the Chair for approval and a copy provided to the Executive Officer. However, Board members should recognize that even when representing themselves as "individuals," their positions might be misconstrued as that of the Board.

CHAPTER 4. Selection of Officers & Committees

Officers of the Board
(§3 Initiative Act)

The Board shall elect at the first meeting of each new year a Chair, Vice Chair and Secretary from the members of the Board.

Election of Officers
(§3 Initiative Act)

Elections of the officers shall occur annually at the January meeting of the Board.

Officer Vacancies
(Board Policy)

If an office becomes vacant during the year, the Chair may appoint a member to fill the vacancy for the remainder of the term until the next annual election.

If the office of the Chair becomes vacant, the Vice Chair shall assume the office of the Chair. Elected officers shall then serve the remainder of the term.

Board Member Addresses
(Board Policy)

Board member addresses and telephone numbers are confidential and shall not be released to the public without expressed authority of the individual Board member. A roster of Board members is maintained for public distribution on the Board's web site using the Board's address and telephone number.

Board Member Written Correspondence and Mailings
(Board Policy)

All correspondence, press releases, articles, memoranda or any other communication written by any Board member in his or her official capacity must be provided to the Executive Officer for reproduction and distribution. The Executive Officer will retain a copy in a chronological file and distribute the written material.

Request to Access Licensee or Applicant Records
(Board Policy)

No Board member may access a licensee's, or applicant's file without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the Board's office at any time.

Communications: Other Organizations/Individuals/Media
(Board Policy)

All communications relating to any Board action or policy to any individual or organization, or a representative of the media shall be made only by the Board Chair, his or her designee, or the Executive Officer. Any Board member who is contacted by any of the above should inform the Board Chair or Executive Officer of the contact.

Committee Appointments
(Board Policy)

The Chair shall establish committees, whether standing or special, as he or she deems necessary.

The composition of the committees and the appointment of the members shall be determined by the Board Chair in consultation with the Vice Chair, Secretary, and the Executive Officer.

Standing Committees
(Board Policy)

The Board has eight standing committees:

1. **Continuing Education Committee**
   The Committee recommends regulations for mandatory continuing education and overseeing the Continuing Education Program, which includes program administration, continuing education providers' evaluation, waiver requests review, and conducting regular at-random and continuing education audits.

2. **Enforcement Committee**
   The Committee proposes regulations, policies, and standards to ensure compliance with chiropractic law and regulations. The Committee continuously seeks ways to improve the Board's enforcement activities.

3. **Government Relations Committee**
The Committee continually reviews policies, procedures, budget, personnel, accounting, and departmental issues. The Committee proposes polices to address audit and Sunset review deficiencies.

The Committee works directly with the Executive Officer and staff to monitor budget expenditures, trends, and the Contingent Fund levels.

The Committee shall monitor individual line item expenditure and look for anomalies with a three year pattern for purposes of preparing a budget change proposal to correct either an under or over expenditure.

4. **Legislative/Regulation Committee**
The Committee proposes regulations that enhance the Board's role as a regulatory agency that protects the public.

The committee will review and recommend positions on bills that affect the Board.

The following classification system will be used by the committee in recommending Board positions:

1. **Support:** The Board supports the current version of the bill.

2. **Support if Amended:** The Board generally supports the concept or intent of the bill.

3. **Oppose:** The Board is opposed to the current version of the bill.

4. **Oppose Unless Amended:** The Board is opposed to the bill but is willing to work with the author and sponsor of the bill to resolve the Board's concerns.

5. **Watch:** The Board has some interest in the bill because it potentially may affect the work of the Board.

5. **Licensing Committee:**
The Committee proposes policies and standards regarding chiropractic colleges, doctors of chiropractic, and satellite offices.

6. **Public Relations:**
The Committee develops strategies to communicate with the public through various forms of media.

7. **Scope of Practice:**
   The Committee reviews and proposes positions on scope of practice issues.

8. **Strategic Planning:**
   The Committee develops draft strategic plans and monitors the Board's progress in achieving goal and objectives.

Committee Meetings
(Board Policy)

Each of these committees is comprised of at least two Board members and staff, who provide technical and administrative input and support. The committees are an important venue for ensuring that staff and Board members share information and perspectives in crafting and implementing strategic objectives.

The Board's committees allow Board members, stakeholders and staff to discuss and conduct problem solving on issues related to the Board's strategic goals. They also allow the Board to consider options for implementing components for the strategic plan.

The committees are charged with coordinating Board efforts to reach Board goals and achieving positive results on its performance measures.

The Board Chair designates one member of each committee as the committee's chairperson.

The chairperson coordinates the committee's work, ensures progress toward the Board's priorities, and presents reports at each meeting.

During any public committee meeting, comments from the public are encouraged, and the meetings themselves are frequently public forums on specific issues before a committee. These meetings shall also be run in accordance with the Bagley-Keene Open Meeting Act.

Attendance at Committee Meetings
(Board Policy and Government Code Section 11122.5 et seq.)

If a Board member wishes to attend a meeting of a committee of which he or she is not a member, the Board member must obtain permission from the Board Chair to attend and must notify the committee chair and staff.

Board members who are not members of the committee that is meeting cannot vote during the committee meeting.

If there is a quorum of the Board at a committee meeting, Board members who are not members of the committee must sit in the audience and cannot participate in committee deliberations.

It is also important to note that any time more than two Board members attend a Board committee meeting, that committee must have been publicly noticed.

The Board's legal counsel works with the Executive Officer to assure any meeting that fits the requirements for a public meeting is appropriately noticed.

CHAPTER 5. Board Administration & Staff

Executive Officer
(§3 Initiative Act)

The Board employs an Executive Officer and establishes his/her salary in accordance with the State law.

The Executive Officer is responsible for the financial operations and integrity of the Board, and is the official custodian of records. The Executive Officer is an at will employee, who serves at the pleasure of the Board, and may be terminated, with or without cause, in accordance with the provisions of the Bagley-Keene Open Meeting Act.

Board Administration
(Board Policy)

Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer as an instrument of the Board.

Executive Officer Evaluation
(Board Policy)

At the first Board meeting of each fiscal year or at any time thereafter as determined by the Board, the Executive Officer is evaluated by the Board Chair during a closed session. Board members provide information to the Chair on the Executive Officer's performance in advance of this meeting.

Board Staff
(§4 Initiative Act)

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements.

Because of this complexity, the Board delegates this authority and responsibility for management of the civil service staff to the Executive Officer as an instrument of the Board.

Board members may express any staff concerns to the Executive Officer but shall refrain from involvement in any civil service matters. Board members shall not become involved in the personnel issues of any state employee.

Board Budget
(Board Policy)

The Executive Officer or the Executive Officer's designee will attend and testify at legislative budget hearings and shall communicate all budget issues to the Administration and Legislature.

Strategic Planning
(Board Policy)

The Administrative Committee shall have overall responsibility for the Board's Strategic Planning Process and shall assist staff in the monitoring and reporting of the strategic plan to the Board.

Communications with Other Organizations & Individuals
(Board Policy)

All communications relating to any Board action or policy to any individual or organization shall be made only by the Chair of the Board, his or her designee, or the Executive Officer.

Any Board member who is contacted by any of the above should inform the Board Chair or Executive Officer of the contact immediately.

All correspondence shall be issued on the Board's standard letterhead and will be disseminated by the Executive Officer's office.

Business Cards
(Board Policy)

Business cards will be provided to each Board member with the Board's name, address, telephone and fax number, and website address.

CHAPTER 6. Other Policies & Procedures

Board Member Disciplinary Actions
(Board Policy)

If a board member violates any provision of the Administrative Procedure Manual, the Chair will provide in writing, notice to the member of the violation. If the member disagrees with the notice, the board member must provide a reply in writing. After giving the board member an opportunity to respond to the notice, the Chair, at his/her discretion may meet in person or discuss by telephone with the board member to discuss the violation. The Chair may ask a third person to be present during the meeting. If the matter is not resolved at the end of the meeting or it is resolved but the board member continues to violate the procedures in the manual, the Chair may agendize at the next board meeting an item asking for censure of the board member.

If the violation concerns the Chair's conduct, the Vice-Chair will handle the matter.

Terms and Removal of Board Members
(§2 Initiative Act)

The Governor shall appoint the members of the Board. Each appointment shall be for the term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each member shall serve until his successor has been appointed and qualified or until one year has elapsed since the expiration of his term whichever first occurs.

No person shall serve more than two consecutive terms on the Board nor be eligible for appointment thereafter until the expiration of four years from the expiration of such second consecutive term, effective January 2, 1974. The Governor may remove a member from the Board after receiving sufficient proof of the inability or misconduct of said member.

Resignation of Board Members
(Government Code Section 1750 (b))

In the event that it becomes necessary for a Board member to resign, a letter shall be sent to the Governor's Office with the effective date of the resignation. Written notification is required by state law. A copy of this letter shall also be sent to the Board Chair and the Executive Officer.

Conflict of Interest
(Government Code Section 87100)

No Board member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest.

Any Board member who has a financial interest shall disqualify him or herself from making or attempting to use his or her official position to influence the decision.

Any Board member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or the Board's legal counsel.

Contact with Licensees and Applicants
(Board Policy)

Board members shall not intervene on behalf of a licensee or applicant for licensure for any reason. They should forward all contacts or inquiries to the Executive Officer.

Contact with Respondents
(Board Policy)

Board members should not directly participate in complaint handling and resolution or investigations.

To do so would subject the Board member to disqualification in any future disciplinary action against the licensee. If a Board member is contacted by a respondent or his/her attorney, the Board member should refer the individual to the Executive Officer.

Service of Legal Documents
(Board Policy)

If a Board member is personally served as a party in any legal proceeding related to his or her capacity as Board member, he or she must contact the Executive Officer immediately.

Serving as an Expert Witness
(Executive Order 66.2)

Pursuant to Executive Order 66-2, no employment, activity, or enterprise shall be engaged in by any gubernatorial appointee which might result in, or create the appearance of resulting in any of the following:

1. Using the prestige or influence of a State office for the appointee's private gain or advantage.

2. Using state time, facilities, equipment, or supplies for the appointee's private gain or advantage, or the private gain or advantage of another.

3. Using confidential information acquired by virtue of State involvement for the appointees private gain or advantage, or the private gain or advantage of another.

4. Receiving or accepting money or any other consideration from anyone other than the State for the performance of an act which the appointee would be required or expected to render in the regular course of hours of his or her State employment or as a part of the appointee's duties as a State officer.

Request for Grants

All requests for funding/contributions to Board projects shall be approved by the Board Chair.

Requests for such grants must be made by the Executive Officer at the Chair's direction. If a Board member makes an individual request, a copy of the request shall be forwarded to the Executive Officer as soon as possible.

The mechanism for receipt, management, and dispersal of funds shall be pre-arranged and approved by the Board.

Gifts from Licensees and Applicants
(Board Policy)

A gift of any kind to Board members from licensees, applicants for licensure, continuing education providers or approved schools is not permitted. Gifts must be returned immediately.

Ex Parte Communications
(Government Code Section 11430.10 et seq.)

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

> "While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer

from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication."

Board members are prohibited from an ex parte communication with Board enforcement staff while a proceeding is pending.

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board members. If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the Executive Officer.

If a Board member receives a telephone call from an applicant under any circumstances or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to them about the matter and inform the Executive Officer and the Board's legal counsel.

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

If a Board member believes that he or she has received an unlawful ex parte communication, he or she should contact the Executive Officer and the Board's legal counsel.

The Honoraria Prohibition

(Government Code Section 89503)
(FPPC Regulations, Title 2, Division 6)

As a general rule, members of the Board should decline honoraria for speaking at, or otherwise participating in, professional association conferences and meetings. A member of a state Board is precluded from accepting an honorarium from any source, if the member would be required to report the receipt of income or gifts from that source on his or her statement of economic interest.

Board members are required to report income from, among other entities, professional associations and continuing education providers. Therefore, a Board member should decline all offers for honoraria for speaking or appearing before such entities.

There are limited exceptions to the honoraria prohibition. The acceptance of an honorarium is not prohibited under the following circumstances:

(1) when a honorarium is returned to the donor (unused) within 30 days; (2) when an honorarium is delivered to the State Controller within thirty days for donation to the General Fund (for which a tax deduction is not claimed); and (3) when an honorarium is not delivered to the Board member, but is donated directly to a bona fide charitable, educational, civic, religious, or similar tax exempt, non-profit organization.

In light of this prohibition, members should report all offers of honoraria to the Board Chair so that he or she, in consultation with the Executive Officer and staff counsel, may determine whether the potential for conflict of interest exists.

Board Member Orientation
(Board Policy)

The Board member orientation session shall be given to new Board members within one year of assuming office.

Ethics Training

California law requires all appointees to take an ethics orientation within the first six months of their appointment and to repeat this ethics orientation every two years throughout their term.

Sexual Harassment Training
(Government Code Section 12950.1)

Board members are required to undergo sexual harassment training and education once every two years. Staff will coordinate the training.

Addendums

Applicable provisions of the following:

Executive Order 66-2
Government Code
State Administrative Manual

Board of Chiropractic Examiners
California Code of Regulations

Section 302

Practice of Chiropractic

(a) Scope of Practice
(1) A duly licensed chiropractor may manipulate and adjust the spinal column and other joints of the human body and in the process thereof a chiropractor may manipulate the muscle and connective tissue related thereto.
(2) As part of a course of chiropractic treatment, a duly licensed chiropractor may use all necessary mechanical, hygienic, and sanitary measures incident to the care of the body, including, but not limited to, air, cold, diet, exercise, heat, light, massage, physical culture, rest, ultrasound, water, and physical therapy techniques in the course of chiropractic manipulations and/or adjustments.
(3) Other than as explicitly set forth in section 10(b) of the Act, a duly licensed chiropractor may treat any condition, disease, or injury in any patient, including a pregnant woman, and may diagnose, so long as such treatment or diagnosis is done in a manner consistent with chiropractic methods and techniques and so long as such methods and treatment do not constitute the practice of medicine by exceeding the legal scope of chiropractic practice as set forth in this section.
(4) A chiropractic license issued in the State of California does not authorize the holder thereof:
(A) to practice surgery or to sever or penetrate tissues of human beings, including, but not limited to severing the umbilical cord;
(B) to deliver a human child or practice obstetrics;
(C) to practice dentistry;
(D) to practice optometry;
(E) to use any drug or medicine included in materia medica;
(F) to use a lithotripter;
(G) to use ultrasound on a fetus for either diagnostic or treatment purposes; or
(H) to perform a mammography.
(5) A duly licensed chiropractor may employ the use of vitamins, food supplements, foods for special dietary use, or proprietary medicines, if the above substances are also included in section 4057 of the Business and Professions Code, so long as such substances are not included in materia medica as defined in section 13 of the Business and Professions Code.
The use of such substances by a licensed chiropractor in the treatment of illness or injury must be within the scope of the practice of chiropractic as defined in section 7 of the Act.
(6) Except as specifically provided in section 302(a)(4), a duly licensed chiropractor may make use of X-ray and thermography equipment for the purposes of diagnosis but not for the purposes of treatment. A duly licensed chiropractor may make use of diagnostic ultrasound equipment for the purposes of neuromuscular skeletal diagnosis.
(7) A duly licensed chiropractor may only practice or attempt to practice or hold himself or herself out as practicing a system of chiropractic. A duly licensed chiropractor may also advertise the use of the modalities authorized by this section as a part of a course of chiropractic treatment, but is not required to use all of the diagnostic and treatment modalities set forth in this section. A chiropractor may not hold himself or herself out as being licensed as anything other than a chiropractor or as holding any other healing arts license or as practicing physical therapy or use the term "physical therapy" in advertising unless he or she holds another such license.
(b) Definitions.
(1) Board. The term "board" means the State Board of Chiropractic Examiners.
(2) Act. The term "act" means the Chiropractic Initiative Act of California as amended.
NOTE: The Chiropractic Initiative Act of California is listed in West's Annotated California Codes following section 1000 of the Business and Professions Code, and in Deering's California Codes Annotated as an appendix to the Business and Professions Code.
(3) Duly licensed chiropractor. The term "duly licensed chiropractor" means any chiropractor in the State of California holding an unrevoked certificate to practice chiropractic, as that term is defined in section 7 of the Act, that has been issued by the board.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF PUBLIC MEETING
ENFORCEMENT COMMITTEE
AUGUST 30, 2012
10:00 a.m.
2525 Natomas Park Drive, Suite 120
Sacramento, CA 95833

AGENDA

1. **CALL TO ORDER**

2. **Approval of Minutes**
   July 14, 2012

3. **Minimum Requirements for Patient Examinations**

4. **Proposed Omnibus Consumer Protection Regulations**

5. **Disciplinary Guidelines**

6. **Pain Management**

7. **Standards for Extracorporeal Shock Wave (ECSW) Therapy – Proposed New California Code of Regulations Section 318.2**
   - Presentation by Ed Cremata, D.C.

8. **Discipline by Another State – California Code of Regulations Section 304**
   - What Constitutes Discipline? (e.g., Voluntary Surrender Pending Disciplinary Action)

9. **Investigators: Authority to Inspect Premises – California Code of Regulations 306.3**
   - Failure to Comply: Consequences

10. **Advertisements – California Code of Regulations Section 311**
    - False & Misleading Advertising
    - Clear Identification of Licensee in Advertisement
    - Seminars that Promote Illegal Acts

T (916) 263-5355
F (916) 263-5369
TT/TDD (800) 735-2929
Consumer Complaint Hotline
(866) 543-1311

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
www.chiro.ca.gov

11. Law Violators – California Code of Regulations Section 314

- Clarification of Section
- Abuse Reporting Requirements (e.g., Spousal, Elder, and Child Abuse)

12. Name of Corporation – California Code of Regulations Section 367.7 & Corporations Code Section

13. Policy/Procedure Regarding "Hold for Discussion" on Proposed Decisions and Stipulated Settlements

14. Disciplinary Orders – Monitoring of Billing Practices by Certified Public Accountants (CPAs)

15. Disciplinary Orders – Timeframe for Taking and Passing Required Examinations (e.g., Ethics & Boundaries)

16. PUBLIC COMMENT

17. FUTURE AGENDA ITEMS

18. ADJOURNMENT

ENFORCEMENT COMMITTEE
Hugh Lubkin, D.C., Chair
Francesco Columbu, D.C.
Sergio Azzolino, D.C.

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

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

The meeting 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.

§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 with the board his or her proper and current ~~place of~~ physical practice address ~~of his principal office~~ and, where appropriate, each and every ~~sub-office~~ satellite 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~~. If a licensee does not have a practice address, the licensee may file with the board his or her proper and current residence address. The address provided pursuant to this paragraph shall be public information unless the licensee also submits an alternate address pursuant to paragraph (b).

(b) In addition to the address filed pursuant to paragraph (a), a licensee may designate a post office box number or other alternate address as the address of record that shall be public information.

(c) Each licensee shall report to the board each and every change of address within 30 (thirty) days after each change, giving both the old and new addresses. The change of address shall be submitted in writing and mailed or faxed to the board at its office in Sacramento.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923 p. 1xxxviii)) and Business and Professions Code Section 27.
Reference: Section 1000-10(a), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923 p. 1xxxviii)) and Section 136 of the Business and Professions Code.

§304. Discipline by Another ~~State~~ Jurisdiction.

~~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.~~
(a) 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 province thereof, or the United States Military or a foreign government or any other jurisdiction shall constitute unprofessional conduct.

(b) Disciplinary action is defined as any revocation, suspension, probation, or reprimand of a professional license.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10(a), ~~of the~~ Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. ~~I~~1xxxviii)). Reference: Sections 1000-4(b) and 1000-10(a) ~~of the~~ (Chiropractic Initiative Act of California (Stats. 1923, p. ~~I~~1xxxviii)) and Sections 141 and 480, Business and Professions Code.

§306.3. Investigators; Authority to Inspect Premises.

The board or its designee may inspect the physical premises of any chiropractic office during regular business hours. Failure by a licensee to allow such an inspection shall be considered as unprofessional conduct.

NOTE~~ote~~: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 1000-4(b), 1000-4(e) and 1000-4(h), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

§308. Display of License.

(a) Each person holding a license shall prominently display ~~a~~ their current active license in the entry area or waiting area of their principal place of business ~~a conspicuous place in the licensee's principal office or primary place of practice~~.

(b) Any licensed ~~D~~doctor of ~~C~~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 ~~D~~doctor of ~~C~~chiropractic must prominently display ~~in a conspicuous place~~ a current active Satellite Office Certificate in the entry area or waiting area of ~~at~~ the office for which it was issued at all times while treating, examining or evaluating patients at that location.

(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 license available for inspection to a representative of the Board or any member of the public immediately upon request.

(e) No licensed ~~D~~doctor of ~~C~~chiropractic shall display any chiropractic license, certificate or registration, which is not currently active and valid.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) and Section 104 of the Business and Professions Code.

Reference: Sections 1000-5, 1000-7 and 1000-12, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) and Section 104, Business and Professions Code.

~~§308.1 Notice to Consumers.~~

~~(a) A licensee engaged in the practice of chiropractic shall provide notice to each patient of the fact that the licensee is licensed and regulated by the board. The notice shall include the following statement and information:~~

~~NOTICE TO CONSUMERS~~

~~Chiropractors are licensed and regulated by the~~

~~California Board of Chiropractic Examiners~~

~~(916) 263-5355~~
~~(800) 735-2929~~

~~www.chiro.ca.gov~~

~~(b) The notice required by this section shall be prominently posted in the entry area or waiting area of the principal place of business and, where appropriate, each satellite office. The notice shall be visible to patients and shall be in at least 48-point type in Arial font.~~

~~(c) In cases where chiropractic services are provided in a mobile setting outside of the principal place of business or satellite office, the notice shall be included in a written statement, signed and dated by the patient or the patient's representative, and retained in that patient's medical records, stating the patient understands the chiropractor is licensed and regulated by the board.~~

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

~~NOTE: Authority cited: Section 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)). Reference: Section 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).~~

§ 312. ~~Illegal Practice~~ Supervision of Unlicensed Individuals.

~~Unlicensed individuals are not permitted to diagnose, analyze, or perform a chiropractic adjustment.~~ An "unlicensed individual" is defined as any person, including a student or graduate of a chiropractic institution, who does not hold a valid California chiropractic

license. An exemption is hereby created for student doctors participating in board approved preceptorship programs.

The licensed doctor of chiropractic shall initially examine and prepare a written treatment plan for a patient prior to the provision of physiotherapy treatment. The unlicensed individual shall follow and provide only the treatment defined in the written plan.

(a) The permitted activities of unlicensed individuals are as follows:

(~~a~~1) Unlicensed individuals may take the history of a patient. ~~However, this activity is separate from the consultation which at all times must be conducted by the licensed doctor.~~ The licensed doctor of chiropractic must confirm the history with the patient and determine all appropriate evaluations, imaging, examinations and referrals.

(~~b~~2) Unlicensed individuals may conduct standard neurological, orthopedic, physical and chiropractic examinations at the direction of the licensed doctor of chiropractic.~~,~~ ~~except they may not perform such examinations which require diagnostic or analytic interpretations nor may they~~ Unlicensed individuals may not render a conclusion either verbally or in writing to a patient regarding the patient's ~~physical~~ condition. ~~As an example, unlicensed individuals may not perform evaluations of heart or lung soundings.~~ Such individuals shall be at all times under the ~~immediate and~~ direct supervision of a licensed ~~D~~doctor of ~~C~~chiropractic.

"~~Immediate and d~~Direct supervision" means the licensed ~~D~~doctor of ~~C~~chiropractic shall be at all times ~~on the premises~~ present in the same chiropractic facility where the examinations are being conducted. The licensed ~~D~~doctor of ~~C~~chiropractic shall be responsible for the verification of the recorded findings and will be solely responsible for rendering a conclusion based on the findings.

(~~c~~3) Unlicensed individuals may administer ~~physical~~ physiotherapy treatments as an adjunct to chiropractic adjustment, provided the ~~physical~~ physiotherapy treatment is conducted under the ~~adequate~~ indirect supervision of a licensed ~~D~~doctor of ~~C~~chiropractic.

~~Adequate~~ "Indirect supervision" means ~~shall include all of the following:~~
~~(1) T~~the licensed doctor of chiropractic shall be present in the same chiropractic facility with the unlicensed individual at least fifty percent of any work week or portion thereof the said individual is on duty unless this requirement has been waived by the board. The licensed doctor of chiropractic shall be readily available to the said individual at all other times for advice, assistance and instruction.

~~(2) The doctor shall initially examine and prepare a written treatment program for a patient prior to the providing of physical therapy treatment by the unlicensed individual.~~

~~(3) The doctor shall provide periodic reevaluation of the treatment program and of the individual's performance in relation to the patient. "Periodic reevaluation" shall mean at least once every thirty days the patient is under active care.~~

~~(4) The doctor shall perform and record an evaluation of the patient and his or her response to treatment at the termination thereof.~~

(~~d~~4) The licensed doctor of chiropractic is responsible for evaluating a radiographic image before any markings are added that obstruct portions of a body part. The licensed doctor of chiropractic may refer the evaluation of radiographic images to a radiologist. Following the licensed doctor of chiropractic's review of the radiograph, the ~~U~~unlicensed individuals may mark X-ray films ~~administered~~ generated by a licensed ~~D~~doctor of ~~C~~chiropractic. "Marking X-rays" is defined as drawing and measuring between reference points and making angular and linear measurements. Unlicensed individuals are not permitted to make any diagnostic conclusions or chiropractic analytical listings.~~,~~ ~~and t~~The licensed ~~doctor~~ of chiropractic is responsible for any pathological entities covered or obstructed by the markings.

(~~e~~b) Unlicensed individuals may not: ~~administer~~

(1) Generate X-rays unless they hold a valid X-ray technician certificate ~~from the~~ issued by the Department of Public Health ~~Services~~, Radiologic Health Branch, or participate under the direct supervision of a licensed ~~D~~doctor of ~~C~~chiropractic ~~in a~~ as part of a training program approved by that department and set forth in Section 25668.1 of the California Health and Safety Code. This prohibition, set forth in Section 30403 of Title 17 of the California Administrative Code includes the following activities:

(~~1~~A) Positioning of patient;

(~~2~~B) Setting up of X-ray machines;

(~~3~~C) Pushing a button to generate a radiographic beam;

(4D) Developing of films. However, ~~T~~the Department of Public Health ~~Services~~, Radiologic Health Branch has determined that unlicensed individuals may develop X-ray film if that is their sole radiologic responsibility.

(2) Unlicensed individuals are not permitted to diagnose, analyze, or perform a chiropractic adjustment. All preceptors must be under the direct supervision of a licensed doctor of chiropractic.

(c) Unlicensed individuals who exceed the permitted scope of practice set forth in this regulation shall be in violation of Section 15 of the Chiropractic Initiative Act and shall be prohibited from applying for a California chiropractic license for such time as may be determined by the board. Student doctors participating in board approved preceptorship programs are not to be considered "unlicensed individuals" when working in said program.

(d) A violation of this section shall constitute unprofessional conduct and may subject the licensee to disciplinary action.

NOTE: Authority cited: Section 1000-4(b), ~~of the~~ Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. ~~l~~1xxxviii)). Reference: Section 1000-15, ~~of the~~ Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. ~~l~~1xxxviii)) and Section 25668.1, California Health and Safety Code; Section 30403 of Title 17, California Administrative Code.

§314. Law Violators.

It shall be the duty of every licensee to notify the Executive Officer or his or her designee of any violation of the act and statutes governing the practice of chiropractic, or these rules and regulations, in order that the board may take disciplinary action.

Note: Authority cited: Sections 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii). Reference: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii).

§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.

NOTE: Authority cited: Sections 1000-4(b), and 1000-10 (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) and Section 475, Business and Professions Code.

Reference: Section 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) and Section 475, Business and Professions Code.

§317.3. Licensee Reporting Requirements.

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

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

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

(3) Any disciplinary action, as defined in section 304.

(b) 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.

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

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).
Reference: Section 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).

§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.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).
Reference: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).

384.1 Petitions for Reinstatement, Reduction of Penalty, or Early Termination of Probation

(a) In petitioning for Reinstatement under Section 1000-10(c) Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii) or Reduction of Penalty which would include Early Termination of Probation under Government Code section 11522, the petitioner has the burden of demonstrating any rehabilitative or corrective measures he or she has taken since the revocation or disciplinary action and, that he or she has the necessary and current qualifications and skills to safely engage in the practice of chiropractic within the scope of current law, and accepted standards of practice.

(b) In reaching its determination the Board may consider various factors including the following:
(1) The original violation(s) for which action was taken against the petitioner's license including:
(A) The type, severity, number, and length of violations.
(B) Whether the violation involved intentional, negligent or other unprofessional conduct.
(C). Actual or potential harm to the public, patients, or others.
(D) The length of time since the violation(s) was committed.

(2) Prior disciplinary and criminal actions also taken against the petitioner by the Board, any State, local or Federal agency or court including:
(A) The petitioner's compliance with all terms of probation, parole, previous discipline or other lawfully imposed sanctions including any order of restitution.
(B) Whether the petitioner is currently on or has been terminated from probation or other lawfully imposed sanction.
(C) The petitioner's legal and regulatory history to and since the violation(s).

(3) The petitioner's attitude toward his or her commission of the original violation(s) and his or her attitude in regard to compliance with legal sanctions and rehabilitative efforts.

(4) The petitioner's documented rehabilitative efforts including:
(A) Efforts to maintain and/or upgrade professional skills and knowledge through continuing education or other methods.
(B) Efforts to establish safeguards to prevent repetition of the original violation(s) including changes or modifications in policies, structure, systems, or methods of behavior applicable to the petitioner's chiropractic practice.
(C) Service to community or charitable groups.

(D) Voluntary restitution to those affected by the original violation(s).
(E) Use of appropriate professional medical or psychotherapeutic treatment.
(F) Participation in appropriate self-help and/or rehabilitation groups.
(G) Use of appropriate peer review mechanisms.
(H) Participation in professional chiropractic organizations or associations.

(5) Assessment of the petitioner's rehabilitative and corrective efforts including:
(A) Whether the efforts relate to the original violation(s).
(B) The date rehabilitative efforts were initiated.
(C) The length, time, and expense associated with rehabilitative efforts or corrective actions.
(D) The assessment and recommendations of qualified professionals directly involved in the petitioner's rehabilitative efforts or acting at the request of the Board, including their description of the petitioner's progress and their prognosis of the petitioner's current ability to practice chiropractic.
(E) The petitioner's reputation for truth, professional ability and good character since the commission of the original violation(s).
(F) The nature and status of ongoing and continuing rehabilitation efforts.
(c) In addition, the Board may consider other appropriate and relevant matters not listed in the above guidelines.

(d) All statements to be introduced at hearing must be made in person or pursuant to Government Code Section 11514 (evidence by affidavit). All other statements not made in person or pursuant to Government Code Section 11514 must be under oath and will be considered only as administrative hearsay.

(e) A petition for reinstatement shall be submitted on an application form (Form # 09PRRL – Revised 05/2007) prescribed and provided by the board, and titled "Petition for Reinstatement of Revoked License," accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento.

(f) A petition for early termination of probation shall be submitted on an application form (Form # 09PTP – Revised 11/2003) prescribed and provided by the board, and titled "Petition for Early Termination of Probation," accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento.

(g) A petition for reduction of penalty shall be submitted on an application form (Form # 09PRP – Revised 11/2003) prescribed and provided by the board, and titled "Petition for Reduction of Penalty," accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento.

(h) A petitioner pursuant to Section 1000-10(c) Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) whose license has been revoked or cancelled may not petition the board for reinstatement until two (2) years has elapsed since the effective date of the decision revoking the license or the date the license was cancelled.

NOTE: Authority cited: Sections 1000-4(b) 1000-10(c) Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)); Section 1003 Business and Professions Code; and Sections 11514 and 11522 Government Code. Reference: Sections 1000-4(b) and 1000-10(c) Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).

§390.7. 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)(3) 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.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).

§390.8. 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, under federal law, or by a foreign government, or any other jurisdiction or province thereof, 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.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).

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§318.2. Standard of Care Regarding Extracorporeal Shock Wave (ECSW) Therapy Under Anesthesia or Anesthetic.

(a) Extracorporeal Shock Wave (ECSW) therapy involving the use of anesthesia or anesthetic may only be performed in either:

(1) A hospital that is licensed by the California Department of Public Health Licensing and Certification Program; or

(2) An ambulatory surgery center that is licensed by the California Department of Public Health Licensing and Certification Program and that is either:

(A) Operating pursuant to section 1248.1 of the Health and Safety Code or

(B) Accredited by an agency approved by the Medical Board of California pursuant to Chapter 1.3 of Division 2 of the Health and Safety Code (commencing with section 1248).

(b) Notwithstanding subsection (a), above, ECSW therapy involving the use of anesthesia or anesthetic shall not be performed in a mobile van as defined in subdivision (h) of section 1248.1 of the Health and Safety Code.

(c) ECSW therapy involving the use of anesthesia or anesthetic may only be performed if the patient is administered anesthesia or anesthetic by a California licensed physician and surgeon or other health care provider authorized under California law to administer anesthesia or anesthetic.

(d) ECSW therapy involving the use of anesthesia or anesthetic may only be performed following an appropriate prior examination of the patient by a California licensed physician and surgeon.

(e) The licensed doctor of chiropractic may not direct, instruct, interfere, or make any orders to the physician and surgeon or other health care provider who is administering and maintaining the anesthesia or anesthetic.

(f) ECSW therapy shall be performed by a licensed and competent doctor of chiropractic. The doctor of chiropractic shall formulate the ECSW therapy treatment plan and shall be responsible for performing the ECSW therapy for that procedure. ECSW therapy is limited to ultrasound related technologies within the scope of practice of a chiropractor.

(g) For the purpose of this section, the licensed doctor of chiropractic may not be involved in nor interfere with the physician and surgeon or other health care provider in the discharge of the patient following the ECSW therapy procedure involving the use of anesthesia or anesthetic.

(h) Failure by a chiropractor to follow the standard of care contained in this section when performing ECSW therapy involving the use of anesthesia or anesthetic shall constitute unprofessional conduct.

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(i) "Extracorporeal Shock Wave Therapy involving the use of anesthesia or anesthetic" or "ECSW Therapy involving the use of anesthesia or anesthetic" means an ultrasound based technology used to break up fibrotic scar tissues or calcifications within musculoskeletal soft tissues of a patient who is sedated by the administration of anesthesia or provided with anesthetic by a physician and surgeon or other health care provider who is legally authorized to administer anesthesia or anesthetic.

(j) Nothing in this section shall be construed to authorize a licensed doctor of chiropractic to perform an ablative procedure.

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TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS
Proposed Repeal of Section 367.7

~~§367.7. Name of Corporation.~~

~~(a) The name of the corporation and any name or names under which it may be rendering professional services shall contain and be restricted to the name or the last name of one or more of its present, prospective, or former shareholders, and include the word "Chiropractic," and the word "Corporation" or wording or abbreviations denoting corporate existence, limited to one of the following: "Corp"; "Incorporated"; "Inc."; "Professional Corporation"; "Prof. Corp."~~

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BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF PUBLIC MEETING
GOVERNMENT AFFAIRS COMMITTEE
AUGUST 30, 2012
1:30 p.m.
2525 Natomas Park Drive, Suite 120
Sacramento, CA 95833

AGENDA

1. **CALL TO ORDER**
2. **Physical Therapy: Direct Access: Other States' Laws**
3. **BCE Mission Statement**
4. **Government Relations: Strategic Plan**
5. **Legislative Bill Tracking**
6. **Policies and Procedures for Preparing Legislative Bill Analyses**
7. **Policies and Procedures for Determining Positions and Testifying on Legislation**
8. **BCE's Attendance at Other Boards' Meetings**
9. **BCE Interest in Having Presentations at Board Meetings by State Associations and Colleges**
10. **BCE Interest in Issuing Proclamations to Recognize Individuals for Their Achievements Consistent with the Board's Consumer Protection Mission**
11. **PUBLIC COMMENT**
12. **FUTURE AGENDA ITEMS**
13. **ADJOURNMENT**

GOVERNMENT AFFAIRS COMMITTEE
Hugh Lubkin, D.C., Chair
Julie Elginer, Dr.PH
Heather Dehn, D.C.

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

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

The meeting 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.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Hearings Re: Petition for Reinstatement of Revoked License

A. Alex Giventer

T (916) 263-5355
F (916) 263-5369
TT/TOD (800) 735-2929
Consumer Complaint Hotline
(866) 543-1311

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
www.chiro.ca.gov