TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS
Sponsored Free Health Care Events

Article 1.5. Sponsored Free Health Care Events – Requirements for Exemption.

§309. Definitions.

For the purposes of section 901 of the Business and Professions Code:

(a) "Community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) "Out-of-state practitioner" means a person who is not licensed in California to engage in the practice of chiropractic but who holds a current, active and valid license in good standing in another state, district, or territory of the United States to practice chiropractic.

(c) The term "in good standing" means that a person:

(1) Is not currently the subject of any investigation by any governmental entity or has not been charged with an offense for any act substantially related to the practice of chiropractic by any public agency;

(2) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon the person's professional conduct or practice of chiropractic, including any voluntary surrender of license; or,

(3) Has not been the subject of an adverse judgment resulting from the practice of chiropractic that the board determines constitutes evidence of a pattern of incompetence or negligence.

NOTE: Authority cited: Sections 901, Business and Professions Code, Section 1000-4(b) Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii). Reference: Section 901, Business and Professions Code.

§309.1. Sponsoring Entity Registration and Recordkeeping Requirements.

(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the Business and Professions Code shall register with the board not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the board, or its delegatee, by submitting to the board a completed "Registration of Sponsoring Entity Under Business & Professions Code Section 901," Form 901-A (DCA/~~2011~~ **2014 - revised**), which is hereby incorporated by reference.

(b) Determination of Completeness of Form. The board may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process "Registration of Sponsoring Entity Under Business and Professions Code Section 901", Form 901-A (DCA/~~2011~~ **2014 - revised**) on behalf of the board. The board, or its delegatee, shall inform the sponsoring entity within 15 calendar days of receipt of Form 901-A (DCA/~~2011~~ **2014 - revised**) in writing that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The board, or its delegatee, shall reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.

(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by Business and Professions Code section 901 as well as a copy of the authorization for participation issued by the board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least 5 years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the board at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the Business and Professions Code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the board. In addition, the sponsoring entity shall provide copies of any record required to be maintained by section 901 of the Business and Professions Code to any representative of the board within 15 calendar days of the request.

(d) Requirement for Prior Board Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval of such practitioner from the board.

(e) Report. Within 15 calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

(1) The date(s) of the sponsored event;

(2) The location(s) of the sponsored event;

(3) The type(s) and general description of all health care services provided at the sponsored event; and

(4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.

NOTE: Authority Cited: Sections 901, Business and Professions Code, Section 1000-4(b) Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii). Reference: Section 901, Business and Professions Code.

§309.2. Out-of-State Practitioner Authorization to Participate in Sponsored Event.

(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the board to provide those services. Authorization shall be obtained for each sponsored event in which the applicant seeks to participate.

(1) An applicant shall request authorization by submitting to the board a completed "Request for Authorization to Practice Without a License at a Registered Free Health Care Event", Form 901-B (BCE/2013), which is hereby incorporated by reference, accompanied by a non-refundable processing fee of $59.00.

(2) The applicant shall also furnish either a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the board to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check. This requirement shall apply only to the first application for authorization that is submitted to the board by the applicant.

(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the board shall notify the sponsoring entity and the applicant whether that request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The board shall deny a request for authorization to participate if:

(A) The submitted Form 901-B (BCE/2013) is incomplete and the applicant has not responded within 7 calendar days to the board's request for additional information;
(B) The applicant does not possess a current, active and valid license in good standing;

(C) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial under section 480 of the Business and Professions Code of an application for licensure by the board;

(D) The applicant has a current physical or mental impairment related to drugs or alcohol;

(E) The applicant has not graduated from a chiropractic college approved or recognized by the board;

(F) The board has been unable to obtain a timely report of the results of the criminal history check.

(2) The board may deny a request for authorization to participate if:

(A) The request is received less than 20 calendar days before the date on which the sponsored event will begin;

(B) The applicant has been previously denied a request for authorization by the board to participate in a sponsored event;

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the board; or

(D) The applicant has participated in 3 sponsored events during the 12 month period immediately preceding the current application.

(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in Business and Professions Code section 309.3(d).

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii) and Section 901, Business and Professions Code. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii), Sections 480 and 901, Business and Professions Code, Section 11105, Penal Code, and Sections 317 and 321.1 of Title 16 of the California Code of Regulations.

§309.3. Termination of Authorization and Appeal.

(a) Grounds for Termination. The board may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the board.

(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the board.

(3) The board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.

(b) Notice of Termination. The board shall provide both the sponsoring entity and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the board may provide the notice to any representative of the sponsored event on the premises of the event.

(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) Appeal of Termination. An out-of-state practitioner may appeal the board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the Business and Professions Code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act (commencing with section 11445.10 of the Government Code).

(e) Informal Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the Executive Officer regarding the reasons for the termination of authorization to participate. The Executive Officer shall, within 30 days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the Executive Officer may affirm or dismiss the termination of authorization to participate. The Executive Officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within 10 (ten) days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal

conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

NOTE: Authority cited: Sections 1000-4(b) Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii) and Section 901 of the Business and Professions Code.
Reference: Section 901 of the Business and Professions Code.

§309.4 Additional Practice Requirements for Out-of-State Practitioners Authorized to Participate in Sponsored Free Health Care Events.

(a) Each out-of-state practitioner authorized to participate in a sponsored event and provide chiropractic services at the sponsored event pursuant to Section 309.2 shall post a notice visible to patients or prospective patients at every station that patients will be seen. This notice shall be in at least 48 point Arial font and include the following information:

NOTICE

I hold a current valid license to practice chiropractic in a state other than California. I have been authorized by the California Board of Chiropractic Examiners to provide chiropractic services in California only at this specific health fair.

California Board of Chiropractic Examiners
(800) 735-2929
www.chiro.ca.gov

NOTE: Authority cited: Sections 1000-4(b) Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii) and Section 901 of the Business and Professions Code.
Reference: Section 901 of the Business and Professions Code.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

SPONSORED FREE HEALTH CARE EVENTS

REGISTRATION OF SPONSORING ENTITY UNDER BUSINESS & PROFESSIONS CODE SECTION 901

In accordance with California Business and Professions Code section 901(d), a non-government organization administering an event to provide health-care services to uninsured and underinsured individuals at no cost, may include participation by certain health-care practitioners licensed outside of California if the organization registers with the California licensing authorities having jurisdiction over those professions. This form shall be completed and submitted by the sponsoring organization **at least 90 calendar days prior to the sponsored event.** *Note that the information required by Business and Professions Code section 901(d) must also be provided to the county health department having jurisdiction in each county in which the sponsored event will take place.*

PART 1 – ORGANIZATIONAL INFORMATION

1. Organization Name: _____

2. Organization Contact Information (*use principal office address*):

Address Line 1 _____ Phone Number of Principal Office _____

Address Line 2 _____ Alternate Phone _____

City, State, Zip _____ Website _____

County _____

Organization Contact Information in California (*if different*):

Address Line 1 _____ Phone Number _____

Address Line 2 _____ Alternate Phone _____

City, State, Zip _____

County _____

3. Type of Organization:

Is the organization operating pursuant to section 501(c)(3) of the Internal Revenue Code? _____ Yes _____ No

If not, is the organization a community-based organization*?
_____ Yes _____ No

Organization's Tax Identification Number _____

If a community-based organization, please describe the mission, goals, and activities of the organization (*attach separate sheet(s) if necessary*): _____

_____
_____
_____
_____
_____
_____

* A "community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

PART 2 – RESPONSIBLE ORGANIZATION OFFICIALS

Please list the following information for each of the principal individual(s) who is the officer(s) or official(s) of the organization responsible for operation of the sponsoring entity.

Individual 1:

Name	Title
Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address
County	

Individual 2:

Name	Title
Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address
County	

Individual 3:

Name	Title
Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address
County	

(Attach additional sheet(s) if needed to list additional principal organizational individuals)

PART 3 – EVENT DETAILS

1. Name of event, if any: _____

2. Date(s) of event (not to exceed ten calendar days): _____

3. Location(s) of the event (be as specific as possible, including address):

_____
_____
_____
_____

4. Describe the intended event; including a list of all types of healthcare services intended to be provided (*attach additional sheet(s) if necessary*): _____

_____
_____
_____
_____
_____
_____

5. Attach a list of all out-of-state health-care practitioners who you currently believe intend to apply for authorization to participate in the event. The list should include the name, profession, and state of licensure of each identified individual.

____ *Check here to indicate that list is attached.*

Note:

- Each individual out-of-state practitioner must request authorization to participate in the event by submitting an application to the applicable licensing Board or Committee.
- The organization will be notified in writing whether authorization for an individual out-of-state practitioner has been granted.

This form, any attachments, and all related questions shall be submitted to:

Department of Consumer Affairs
Attn: Sponsored Free Health-Care Events
~~Legislative and Policy Review Division~~Complaint Resolution Program
1625 North Market Blvd., Ste. S-~~204~~202
Sacramento, CA 95834

Tel: (916) 574-~~7800~~7950
Fax: (916) 574-~~8655~~8676
E-mail: ~~lprdivision@dca.ca.gov~~CRP2@dca.ca.gov

- I understand that I must maintain records in either electronic or paper form both at the sponsored event and for five (5) years in California, per the recordkeeping requirements imposed by California Business and Professions Code section 901 and the applicable sections of Title 16, California Code of Regulations, for the regulatory bodies with jurisdiction over the practice to be engaged in by out-of-state practitioners
- I understand that our organization must file a report with each applicable Board or Committee within fifteen (15) calendar days of the completion of the event.

I certify under penalty of perjury under the laws of the State of California that the information provided on this form and any attachments is true and current, and that I am authorized to sign this form on behalf of the organization:

Name Printed	Title
Signature	Date

PERSONAL INFORMATION COLLECTION, ACCESS AND DISCLOSURE

Disclosure of your personal information is mandatory. The information on this form is required pursuant to Business and Professions Code section 901. Failure to provide any of the required information will result in the form being rejected as incomplete. The information provided will be used to determine compliance with the requirements promulgated pursuant to Business and Professions Code section 901. The information collected may be transferred to other governmental and enforcement agencies. Individuals have a right of access to records containing personal information pertaining to that individual that are maintained by the applicable Board or Committee, unless the records are exempted from disclosure by section 1798.40 of the Civil Code. An individual may obtain information regarding the location of his or her records by contacting the ~~Deputy Director of the Legislative and Policy Review Division~~Complaint Resolution Program at the address and telephone number listed above.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

REQUEST FOR AUTHORIZATION TO PRACTICE WITHOUT A LICENSE AT A REGISTERED FREE HEALTH CARE EVENT

In accordance with California Business and Professions Code Section 901, any doctor of chiropractic licensed and in good standing in another state, district, or territory in the United States may request authorization from the California Board of Chiropractic Examiners (Board) to participate in a free health care event offered by a sponsoring entity, registered with the Board pursuant to Section 901, for a period not to exceed ten (10) days. The Board may deny requests for authorization received less than twenty (20) calendar days before the date on which the sponsored event will begin.

Note: If you are submitting fingerprint cards to the Board ("Ink on Cards") along with your application, the Board recommends that you submit your completed application package to the Board at least sixty (60) days prior to the scheduled event to assist in the timely processing of your fingerprint submissions through the California Department of Justice and Federal Bureau of Investigation.

PART 1 - APPLICATION INSTRUCTIONS

An application must be complete and must be accompanied by all of the following:

- A processing fee of $59.00, made payable to the Board of Chiropractic Examiners. If submitting fingerprint cards instead of using Live Scan, please submit an additional $49 fee, payable to the Board of Chiropractic Examiners, to process your fingerprint cards for a total fee of $108.00.
- A copy of each current and valid license authorizing the applicant to engage in the practice of chiropractic issued by any state, district, or territory of the United States.
- Any documents or statements requested on this application.
- Fingerprints. Fingerprints can be done with electronic Live Scan or ink on cards.

Live Scan is available only in California, for either residents or visitors, and is far speedier. A list of Live Scan locations can be found on the Board's website (www.chiro.ca.gov). Please complete this form and take it to a Live Scan service location in California and pay the fee directly to the Live Scan facility.

Your fingerprints will be transmitted electronically to the DOJ, and the DOJ will send the report directly to the Board of Chiropractic Examiners. There is a lower rate of rejection with this method.

Ink on Cards. If you are unable to come to California, you may contact the Board to obtain a copy of California "Ink on Cards" to have fingerprints made – 2 cards. Other States' resident Ink Cards will not be accepted. **Be sure to type or print legibly in black ink all the areas on both cards asking for personal information, that the cards are dated and signed by the official taking the fingerprints, and have your signature on them.** Include both fingerprint cards in your application with a $49 non-refundable processing fee. Reports on some cards are unreadable and must be redone due to factors beyond the control of the Board.

The Board will not grant authorization until this form has been completed in its entirety, all required enclosures have been received by the Board, and any additional information requested by the Board has been provided by the applicant and reviewed by the Board, and a determination has been made to grant authorization.

The Board shall process this request and notify the sponsoring entity listed in this form if the request is approved or denied within twenty (20) calendar days of receipt. If the Board requires additional or clarifying information, the Board will contact you directly. Written approval or denial of requests will be provided directly to the sponsoring entity and to the applicant.

PART 2 – GENERAL INFORMATION*

1. Applicant Name:

_____
First Middle Last

2. U.S. Social Security Number: _____ - _____ - _____ Date of Birth: _____

3. Applicant's Contact Information*:

_____ Address Line 1

_____ Address Line 2

_____ City, State, Zip

_____ Phone

_____ Alternate Phone

_____ E-mail address

(*If an authorization is issued, this address information will be considered your "address of record" with the Board and will be made available to the public upon request.)

4. Applicant's Employer: _____

Employer's Contact Information:

Address Line 1	Phone
Address Line 2	Facsimile
City, State, Zip	E-mail address (if available)

PART 3 – LICENSURE INFORMATION

1. Do you hold a current, active, and valid issued by a state, district, or territory of the United States authorizing the unrestricted practice of chiropractic in your jurisdiction(s)?

No ☐ If no, you are not eligible to participate as an out-of-state practitioner in the sponsored event.

Yes ☐ If yes, list every license authorizing you to engage in the practice of chiropractic in the following table. If there are not enough boxes to include all the relevant information, please attach an addendum to this form. Please also attach a copy of each of your current licenses.

State/ Jurisdiction	Issuing Agency/Authority	License Number	Expiration Date

2. Are you currently the subject of any investigation by any governmental entity?
___ Yes ___ No
If yes, provide a detailed explanation of the circumstances surrounding the investigation.

3. Have you ever had charges filed against a doctor of chiropractic license that you currently hold or held in the past, including charges that are still pending?
___ Yes ___ No
If yes, provide a detailed explanation and a copy of the documents relating to the filing of charges.

4. Have you ever had any disciplinary action taken against a doctor of chiropractic license or other healing arts license?

___ Yes ___ No

Disciplinary action includes, but is not limited to, suspension, revocation, probation, confidential discipline, consent order, letter of reprimand or warning, or any other restriction or action taken against a doctor of chiropractic license. If yes, provide a detailed explanation and a copy of all documents relating to the disciplinary action.

5. Have you ever surrendered a doctor of chiropractic license, either voluntary or otherwise?

___ Yes ___ No

If yes, provide a detailed explanation and a copy of all documents relating to the surrender.

6. Have you ever been the subject of a malpractice settlement or judgment?

___ Yes ___ No

If yes, provide a detailed explanation of the circumstances and outcome relating to the malpractice settlement or judgment. You may be required to provide additional information after review of your explanation.

IMPORTANT REQUIREMENT: If a disciplinary action is filed against any license you currently hold pending the Board's decision on this application for authorization, you must notify the Board in writing within 48 hours.

7. With the exception of conviction of an infraction resulting in a fine of less than $1,000, have you ever been convicted of any crime, including an infraction, misdemeanor or felony?

___ Yes ___ No

"Conviction includes a plea of no contest and any conviction that has been set aside pursuant to Section 1203.4 of the Penal Code. Therefore, you must disclose any convictions that were subsequently set aside pursuant to Section 1203.4 of the Penal Code.

8. Did you have a current physical or mental impairment related to drugs or alcohol?

___ Yes ___ No

9. Provide the name(s), location(s), and date(s) of chiropractic colleges you attended.

Dates Attended From	To	Name of Chiropractic College	Location	Date and Degree Earned

PART 4 – SPONSORED EVENT

1. Name and address non-profit or community-based organization hosting the free healthcare event (the "sponsoring entity"):_____

_____

2. Name of event: _____

3. Date(s) & location(s) of the event: _____

_____

4. Date(s) & location(s) applicant will be performing healthcare services (if different):

_____

_____

5. Please specify the healthcare services you intend to provide: _____

_____

_____

_____

6. Name and phone number of contact person with sponsoring entity:

_____

_____

PART 5 – ACKNOWLEDGMENT/CERTIFICATION

I, the undersigned, declare under penalty of perjury under the laws of the State of California and acknowledge that:

- I will comply with all applicable practice requirements required of licensed doctors of chiropractic and all regulations of the Board.
- In accordance with Business and Professions Code Section 901(i), I will only practice within the scope of my licensure and within the scope of practice for California-licensed doctors of chiropractic.
- I will provide the services authorized by this request and Business and Professions Code Section 901 to uninsured and underinsured persons only and shall receive no compensation for such services.
- I will provide the services authorized by this request and Business and Professions Code Section 901 only in association with the sponsoring entity listed herein and only on the dates and at the locations listed herein for a period not to exceed 10 calendar days.
- I have not committed any act or been convicted of a crime constituting grounds for denial of licensure by the board.
- I am in good standing with the licensing authority or authorities of all jurisdictions in which I hold licensure and/or certification to practice medicine.
- I am responsible for knowing and will comply with all applicable practice requirements required of licensed doctors of chiropractic and all regulations of the Board.
- I will post the notice required pursuant to Cal. Code of Regs., Title 16, Section 309.4.
- I am responsible for knowing and complying with California law and practice standards while participating in a sponsored event located in California.
- Practice of a regulated profession in California without proper licensure and/or authorization may subject me to potential administrative, civil and/or criminal penalties.
- The Board may notify the licensing authority of my home jurisdiction and/or other appropriate law enforcement authorities of any potential grounds for discipline associated with my participation in the sponsored event.
- I have read the questions in the foregoing application and all information provided by me in this application is true and complete to the best of my

knowledge. By submitting this application and signing below, I am granting permission to the Board to verify the information provided and to perform any investigation pertaining to the information I have provided as the board deems necessary.

My signature on this application, or copy thereof, authorizes the National Practitioner Data Bank to release any and all information required by the California Board of Chiropractic Examiners.

_____ _____

Signature Date

_____

Printed Name

NOTE: Authorization will not be issued until clearance has been received from the California Department of Justice and the Federal Bureau of Investigation.

NOTICE OF COLLECTION OF PERSONAL INFORMATION

Disclosure of your personal information is mandatory. The information on this application is required pursuant to Title 16, California Code of Regulations section 309.2 and Business and Professions Code section 901. Failure to provide any of the required information will result in the form being rejected as incomplete or denied. The information provided will be used to determine compliance with Article 1.5 of Division 4 of Title 16 of the California Code of Regulations (beginning at section 309). The information collected may be transferred to other governmental and enforcement agencies. Individuals have a right of access to records containing personal information pertaining to that individual that are maintained by the Board, unless the records are exempted from disclosure by Section 1798.40 of the Civil Code. Individuals may obtain information regarding the location of his or her records by contacting the Executive Officer at the Board at the address and telephone number listed above.

TITLE 16, BOARD OF CHIROPRACTIC EXAMINERS

Proposed Amendments to CCR §321

§ 321. Application for License.

An Application for a License to Practice Chiropractic shall be submitted on an application form (No. 09A-1 (Rev. ~~9/92~~ 4/14)) prescribed and provided by the board, and titled Application for License to Practice Chiropractic, accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento, with the required nonrefundable application fee of one hundred dollars ($100.00).

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(c), Business and Professions Code. Reference: Section 1000-5, Business and Professions Code.

§364. Exemptions and Reduction of Requirement.

A licensee may qualify for a full or partial exemption, from the continuing education requirements of Section 361 if a licensee meets any of the criterion listed below:

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

(b) A new licensee is exempt from continuing education requirements in the year of initial licensure;

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

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

(e) Notwithstanding Section 361(c), a licensee who is unable to attend continuing education courses due to a physical disability and provides written certification from a primary health care provider may earn all 24 hours of continuing education credits for

the period of the license renewal through Board-approved distance learning courses as defined in Section 363.1.

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

(g) A licensee who participates in the entire two-day workshop as a Subject Matter Expert for the purpose of exam development of the California Law and Professional Practice Examination shall receive a maximum of sixteen (16) hours of continuing education credit in the Ethics and Law subject area as defined in section 361(g)(11).

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

(~~h~~i) ~~Notwithstanding Section 361(c), a~~ A licensee on active duty with a branch of the armed forces of the United States or the California National Guard who meets the exemption requirements specified in Business and Professions Code section 114.3 shall be exempt from continuing education requirements. ~~permitted to take all twenty-four (24) hours of required continuing education through board-approved distance learning courses as defined in Section 363.1.~~

Authority cited: Section 114.3 of the Business and Professions Code and Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Section 114.3 of the Business and Professions Code and Sections 1000-4(b), 1000-4(e) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

Edmund G. Brown Jr., Governor

APPLICATION FOR A CHIROPRACTIC LICENSE

READ all instructions prior to completing this application. ALL questions on this application must be answered, and all supporting documents must be submitted as per instructions. When space provided is insufficient, attach additional sheet(s) of paper. All attachments are considered part of the application. Standard processing time is three to five months. If you are an out-of-state applicant, contact our office for the required fingerprint cards. **Licensing application processing fee is $100.00**. If you are submitting fingerprint cards, include an additional $51.00 for processing. All fees are non-refundable. Make your check payable to "BOCE".

Type or print clearly

NAME: Last	First	Middle
Other names you have used (include maiden name):		
ADDRESS: Number and Street (will be released to the public once you are licensed UNLESS you update with a practice address)		
City	State	Zip Code

Telephone Number (include area code) Home: Work:	Driver's License Number / State Expiration Date:	Attach photograph of applicant taken within 60 days of filing this application Photo larger than the box
Date of Birth:	Social Security Number:	
Sex: ☐ Female ☐ Male	Are you a U.S. citizen? ☐ Yes ☐ No	
Have you ever served in the United States military? ☐ Yes* ☐ No	Are you a spouse, domestic partner or in a legal union with an active duty member of the U.S. military stationed in California? ☐ Yes* ☐ No	

(* If you answered yes, please provide official documentation (i.e. proof of current military status; discharge; legal documentation of marriage, domestic partnership or legal union).

EDUCATIONAL BACKGROUND

Name of High School	Location (City, State)	Date of Graduation or GED earned

List all undergraduate schools attended

Dates Attended From	To	Name of college or university (no abbreviations or acronyms)	Location	Date and Degree Earned

Chiropractic college(s) attended:

Dates Attended From	To	Name of Chiropractic College	Location	Date and Degree Earned

FOR OFFICE USE ONLY

Cashiered Date: _____

Amount Rec'd: _____

1. Have you ever filed an application for chiropractic examination or licensure in California? ☐ Yes ☐ No
If "Yes", please give the year and outcome of the previous application:

_____

2. Have you ever been licensed to practice chiropractic in any state, province or territory?..... ☐ Yes ☐ No

Jurisdiction	License Number	Date of Issuance	Dates of Practice

If "Yes", have each chiropractic agency submit license verification to the CA Board of Chiropractic Examiners.

3. Do you hold any other professional license in any state, province or territory?..... ☐ Yes ☐ No
If yes: Profession: _____ Issuing Agency: _____ Lic #: _____

Has this license ever been revoked or subject to discipline? ☐ Yes ☐ No
If "Yes", provide all official documentation regarding the matter in addition to a written explanation. You are also required to report any matter that is PENDING or in which charges have been DROPPED or EXPUNGED.

If you answer "Yes" to questions 4 through 13, provide official documentation regarding the matter in addition to your written personal explanation. Applicant must provide official certified hearing/court documents and original letters of explanation from chiropractic colleges. If these documents are not provided with the application, they will be requested before review of the application can be processed. APPLICANTS ARE REQUIRED TO REPORT ANY MATTER THAT IS PENDING OR IN WHICH CHARGES HAVE BEEN DROPPED or EXPUNGED.

4. Have you ever withdrawn from, or been suspended, dismissed or expelled from a chiropractic college OR have you ever taken a leave of absence? ☐ Yes ☐ No

If you answered "yes", both applicant and college must provide details on a separate attachment

For all below, also include any disciplinary actions by the U.S. Military, U.S. Public Health Service, or other U.S. federal government entity:

5. Have you ever been charged with, or been found to have committed, unprofessional conduct, professional incompetence, gross negligence, or repeated negligent acts or malpractice by any licensing board, or other agency, or hospital? ☐ Yes ☐ No

6. Has any disciplinary action ever been filed or taken, including but not limited to, informal or confidential discipline, consent orders, or letters or warning, regarding any healing arts license which you now hold or have ever had? ☐ Yes ☐ No

7. Is any such action as described above pending? ☐ Yes ☐ No

If you answered "yes" to 5, 6, or 7 provide details on a separate attachment

8. Has a claim or action for damages ever been filed against you in the course of the practice of chiropractic or any other healing art which resulted in malpractice settlement, judgment, or arbitration award of over $3,000.00? ☐ Yes ☐ No

If you answered "yes" provide details on a separate attachment

Applicant Initial Here

9. Have you ever been denied a license, permission to practice chiropractic or any other healing art, or denied permission to take an examination in any state, territory, country, or U.S. federal jurisdiction, or is any such action pending? ☐ Yes ☐ No

If you answered "yes" provide details on a separate attachment

10. Have you ever voluntarily surrendered a license to practice chiropractic or any other healing art in this or any other state, or is any such action pending? ☐ Yes ☐ No

If you answered "yes" provide details on a separate attachment

11. Do you have any condition which in any way impairs or limits your ability to practice chiropractic with reasonable skill and safety, including but not limited to, any of the following? ☐ Yes ☐ No

If "Yes", check the appropriate box(es):

- ☐ A condition which required admission to an inpatient psychiatric treatment facility
- ☐ Alcohol or chemical substance dependency or addiction
- ☐ Emotional, mental or behavioral disorder
- ☐ Other (explain): _____

12. Have you ever been convicted or pled guilty or pled nolo contendere to ANY offense (include every misdemeanor or felony) of any local, state, or federal law of any state, territory, foreign country, or U.S. federal jurisdiction? **This includes every citation, infraction, misdemeanor and/or felony, including traffic violations of $500 or more. NOTE: Convictions that were adjudicated in the juvenile court or convictions two years or older under California Health and Safety Code sections 11357(b), (c), (d), (e) or section 11360(b) should NOT be reported. Convictions that were later expunged from the records of the court or set aside pursuant to section 1203.4 of the California Penal Code or equivalent non-California law MUST be disclosed.** ☐ Yes ☐ No

13. Exclusive of juvenile court adjudications and criminal charges dismissed under section 1000.3 of the California Penal Code or equivalent non-California laws, or convictions two years or older under California Health and Safety Code sections 11357(B), (c), (d), (e) or section 11360(b), have you had a conviction that was set aside or later expunged from the records of the court? ☐ Yes ☐ No

14. Is any criminal action pending against you, or are you currently awaiting judgment and sentencing following entry of a plea or jury verdict? ☐ Yes ☐ No

If you answered "Yes" to questions 12, 13 or 14, attach a written DETAILED explanation, obtain a copy of the arrest report and include CERTIFIED copies of all court documents for each conviction. Include proof of completion of any terms of probation.

SPECIAL ACCOMMODATIONS

15. Do you have a disability or impairment for which you may need assistance during the written California Law & Professional Practice Examination? ☐ Yes ☐ No

If "Yes", describe the nature of your disability and the accommodations you are requesting?

Attach the following:

- Current documentation from a doctor, psychologist, psychiatrist, or other appropriate professional certifying your disability

Applicant Initial Here

Application Declaration / Signature

I hereby certify under penalty of perjury under the laws of the State of California to the truth and accuracy of the foregoing information contained on this application, including any attachments. I also certify that I personally completed this application and have read and understood the instructions. ***I understand that falsification or misrepresentation of any item or response on this application or any attachment hereto is a sufficient basis for denying or revoking a license.***

Signature of Applicant: _____
(Please Sign Full Name, not initials)

Signed on this _____ day of _____
MONTH YEAR

Mail your application, attachments and fees to:

State of California
Board of Chiropractic Examiners
901 P Street, Suite 142A
Sacramento, California 95814
916-263-5355

Notice

Section 5 of the Chiropractic Initiative Act of California and Sections 331.12.1 and 331.12.2 of Article 4 of Title 16, California Code of Regulations require that the Board of Chiropractic Examiners request the information on this application. Failure to provide the information is sufficient reason for the Board to reject the application as incomplete and deny licensure.

The information you provide, unless kept confidential by law or exempted under the Information Practices Act, will become public record and may be shared with attorneys and law enforcement agencies which assist the Board in enforcing the laws and regulations pertaining to the practice of chiropractic in California. Subject to the provisions of the Information Practices Act, you may review or obtain copies of information contained in your records from the Board's office.

Disclosure of your U.S. Social Security Number (SSN) is mandatory. Section 30 of the Business and Professions Code and Public Law 94-455 (42 USCA 405(c)(2)(C)) authorize collection of your SSN. Your SSN will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code, or for verification of licensure or examination status by a licensing or examination entity which utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your SSN, your application for licensure will not be processed AND you will be reported to the Franchise Tax Board, which may assess a $100 penalty against you.

NOTICE: Effective July 1, 2012, the State Board of Equalization and the Franchise Tax Board may share taxpayer information with the board. You are obligated to pay your state tax obligation and your license may be suspended if the state tax obligation is not paid.

California LEGISLATIVE INFORMATION

AB-258 State agencies: veterans. (2013-2014)

Assembly Bill No. 258

CHAPTER 227

An act to add Section 11019.11 to the Government Code, relating to state agencies.

[Approved by Governor September 06, 2013. Filed with Secretary of State September 06, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 258, Chávez. State agencies: veterans.

Existing law provides for the governance and regulation of state agencies, as defined. Existing law provides certain benefits and protections for members of the Armed Forces of the United States.

This bill would require, on or after July 1, 2014, every state agency that requests on any written form or written publication, or through its Internet Web site, whether a person is a veteran, to request that information in a specified manner.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11019.11 is added to the Government Code, to read:

11019.11. (a) Every state agency that requests on any written form or written publication, or through its Internet Web site, whether a person is a veteran, shall request that information only in the following format: "Have you ever served in the United States military?"

(b) This section shall apply only to a written form or written publication that is newly printed on or after July 1, 2014.

AB-1904 Professions and vocations: military spouses: expedited licensure. (2011-2012)

Assembly Bill No. 1904

CHAPTER 399

An act to add Section 115.5 to the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 20, 2012. Filed with Secretary of State September 20, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1904, Block. Professions and vocations: military spouses: expedited licensure.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. Existing law authorizes a licensee to reinstate an expired license without examination or penalty if, among other requirements, the license expired while the licensee was on active duty as a member of the California National Guard or the United States Armed Forces.

This bill would require a board within the department to expedite the licensure process for an applicant who holds a license in the same profession or vocation in another jurisdiction and is married to, or in a legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 115.5 is added to the Business and Professions Code, to read:

115.5. (a) A board within the department shall expedite the licensure process for an applicant who meets both of the following requirements:

(1) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which he or she seeks a license from the board.

(b) A board may adopt regulations necessary to administer this section.

Assembly Bill No. 1057

CHAPTER 693

An act to add Section 114.5 to the Business and Professions Code, relating to professions and vocations.

[Approved by Governor October 10, 2013. Filed with Secretary of State October 10, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1057, Medina. Professions and vocations: licenses: military service.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a licensee or registrant whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces to, upon application, reinstate his or her license without penalty and without examination, if certain requirements are satisfied, unless the licensing agency determines that the applicant has not actively engaged in the practice of his or her profession while on active duty, as specified.

This bill would require each board, commencing January 1, 2015, to inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

The people of the State of California do enact as follows:

SECTION 1. Section 114.5 is added to the Business and Professions Code, to read:

114.5. Commencing January 1, 2015, each board shall inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

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California LEGISLATIVE INFORMATION

AB-1588 Professions and vocations: reservist licensees: fees and continuing education. (2011-2012)

Assembly Bill No. 1588

CHAPTER 742

An act to add Section 114.3 to the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 29, 2012. Filed with Secretary of State September 29, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1588, Atkins. Professions and vocations: reservist licensees: fees and continuing education.

Existing law provides for the regulation of various professions and vocations by boards within the Department of Consumer Affairs and for the licensure or registration of individuals in that regard. Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license without examination or penalty if certain requirements are met.

This bill would require the boards described above, with certain exceptions, to waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if any are applicable, of any licensee or registrant who is called to active duty as a member of the United States Armed Forces or the California National Guard if certain requirements are met. The bill would, except as specified, prohibit a licensee or registrant from engaging in any activities requiring a license while a waiver is in effect. The bill would require a licensee or registrant to meet certain renewal requirements within a specified time period after being discharged from active duty service prior to engaging in any activity requiring a license. The bill would require a licensee or registrant to notify the board of his or her discharge from active duty within a specified time period.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 114.3 is added to the Business and Professions Code, to read:

114.3. (a) Notwithstanding any other provision of law, every board, as defined in Section 22, within the department shall waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if any are applicable, for any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard if all of the following requirements are met:

(1) The licensee or registrant possessed a current and valid license with the board at the time he or she was called to active duty.

(2) The renewal requirements are waived only for the period during which the licensee or registrant is on active duty service.

(3) Written documentation that substantiates the licensee or registrant's active duty service is provided to the board.

(b) (1) Except as specified in paragraph (2), the licensee or registrant shall not engage in any activities requiring a license during the period that the waivers provided by this section are in effect.

(2) If the licensee or registrant will provide services for which he or she is licensed while on active duty, the board shall convert the license status to military active and no private practice of any type shall be permitted.

(c) In order to engage in any activities for which he or she is licensed once discharged from active duty, the licensee or registrant shall meet all necessary renewal requirements as determined by the board within six months from the licensee's or registrant's date of discharge from active duty service.

(d) After a licensee or registrant receives notice of his or her discharge date, the licensee or registrant shall notify the board of his or her discharge from active duty within 60 days of receiving his or her notice of discharge.

(e) A board may adopt regulations to carry out the provisions of this section.

(f) This section shall not apply to any board that has a similar license renewal waiver process statutorily authorized for that board.

Board of Chiropractic Examiners

INITIAL STATEMENT OF REASONS

Hearing Date: None

Subject Matter of Proposed Regulations: Extracorporeal Shock Wave Therapy (ECSW)

Sections Affected:

The proposed regulations would add Section 318.2, which is contained in Article 2 in Division 4 of Title 16 of the California Code of Regulations (CCR).

Introduction:

Business and Professions Code (BPC) section 1000 – 4(b), (Chiropractic Initiative Act of California Stats. 1923p.1xxxviii), hereinafter Initiative Act, authorizes the Board to adopt regulations as they may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public.

Extracorporeal Shock Wave Therapy under anesthesia is an ultrasound based technology used by licensed chiropractors to break up fibrotic scar tissues or calcifications within musculoskeletal soft tissues of a patient who is sedated by the administration of anesthesia by a physician and surgeon or other health care provider who is legally authorized to administer anesthesia. Board regulations do not currently establish the standard of care or procedures in which ECSW therapy under anesthesia may be performed. Adoption of this proposal is necessary to protect chiropractic patients by requiring licensed chiropractors to adhere to specific standards when performing ECSW under anesthesia. Without any standards in place, patients are at risk for serious injury.

Specific Purpose and Factual Basis of each adoption, amendment, or repeal:

Section 318.2(a)

This section would specify that ECSW therapy involving the use of anesthesia or anesthetic may only be performed in a hospital that is licensed by the California Department of Public Health, Licensing and Certification Program or an ambulatory surgery center that is licensed by the California Department of Public Health, Licensing and Certification and operating pursuant to section 1248.1 of the Health and Safety Code or 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).

ECSW therapy involving the use of anesthesia or anesthetic is a procedure currently being performed by some licensed chiropractors in California. However, the Board's regulations do not contain the standard of care or conditions under which ECSW under anesthesia shall be performed. This language is necessary for patient protection as not all settings are appropriate for the safe performance of ECSW under

anesthesia. The board determined that facilities licensed or approved by the entities listed in this subdivision have the necessary safety equipment and standards in place to protect consumers undergoing ECSW under anesthesia.

Section 318.2 (b)

This section would specify that ECSW therapy involving the use of anesthesia or anesthetic may not be performed in a mobile van, even though section 1248.1 of the Health and Safety Code acknowledges mobile vans as an authorized setting to provide medical treatment.

The Board believes that a mobile van is not the safest environment to provide ECSW therapy under anesthesia and should not be allowed in order to ensure patient safety. Mobile vans can be located anywhere. As such, mobile vans may not be within a close proximity to emergency medical care nor adequately equipped to handle an emergency if a patient suffered an adverse reaction during treatment.

Section 318.2 (c)

This section would specify that only a physician, surgeon, or other health care provider authorized under California law shall administer anesthesia during ESCW therapy involving the use of anesthesia.

Chiropractors are prohibited from administering or prescribing drugs in any manner; therefore, this language is necessary to clearly identify who is in charge of administering and maintaining anesthesia to a patient for patient safety.

Section 318.2 (d)

This subsection would specify that ECSW therapy under anesthesia may only be performed following an appropriate prior examination of the patient by a California licensed physician and surgeon.

This language is consistent with the Medical Practice Act and is necessary to protect the public. Business and Professions Code section 2242 requires a prior examination of patients when prescribing, dispensing, or furnishing dangerous drugs and failure to comply with this section is considered unprofessional conduct.

Section 318.2 (e)

This section would specify that the chiropractor 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.

This language is necessary to clearly distinguish the roles of the health care professional administering anesthesia and the chiropractor to ensure patient safety during ECSW therapy under anesthesia.

Section 318.2(f)

This section would specify that ECSW therapy involving the use of anesthesia or anesthetic shall be performed by a licensed and competent doctor of chiropractic who shall formulate the ECSW therapy treatment plan and perform the ECSW therapy. This section further clarifies that ECSW therapy is limited to ultrasound related technologies within the scope of practice of a chiropractor.

The health and safety of the public is the board's primary responsibility. This language is necessary to establish the role of the doctor of chiropractic who provides ECSW therapy under anesthesia to patients and ensure that the ECSW therapy provided by the doctor of chiropractic is within their scope of practice for which they have been trained.

Section 318.2(g)

This section would prohibit the doctor of chiropractic from being involved in or interfering with the physician and surgeon or other health care provider in the discharge of the patient following the ECSW therapy procedure.

This language is necessary to clarify that it is not within the doctor of chiropractic's authority to discharge a patient following ECSW therapy under anesthesia. This will ensure that the patient receives the appropriate care required from a qualified physician before being safely discharged following anesthesia.

Section 318.2(h)

This section would define a chiropractor's failure to follow the standard of care contained in this section when performing ECSW therapy involving the use of anesthesia or anesthetic as unprofessional conduct.

This language will enhance public protection by providing the board with authority to discipline a licensee who does not follow the standard of care prescribed for ECSW involving the use of anesthesia.

Section 318.2(i)

This section would clarify that 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 by a physician and surgeon or other health care provider who is legally authorized to administer anesthesia.

This language would promote patient protection by defining the scope of ECSW therapy under anesthesia so that chiropractors performing this therapy remain within these parameters for which they are licensed.

Section 318.2 (j)

This section would provide that nothing in this section shall be construed to authorize a licensed doctor of chiropractic to perform an ablative procedure.

Ablative procedures are considered invasive and are prohibited by the chiropractic scope of practice. This provision will protect consumers by ensuring that chiropractors who provide ECSW therapy under anesthesia do not exceed their scope of practice during this procedure.

Underlying Data:

Board Meeting Minutes – September 20, 2012

Extracorporeal shockwave therapy in musculoskeletal disorders by Ching-Jen Wang – Journal of Orthopaedic Surgery and Research 2012, 7:11

High-Resolution Finite Volume Methods for Extracorporeal Shock Wave Therapy by Fagnan, LeVegue, Matula and MacConaghy – University of Washington

Economic Impact Assessment:

Impact on Jobs

The Board has determined this regulatory proposal will not have any impact on the creation of jobs or new businesses, or the elimination of jobs or existing businesses, or the expansion of businesses in the State of California. This proposal will specifically affect doctors of chiropractic who provide ECSW therapy under anesthesia to patients. The number of California licensed doctors of chiropractic who offer this type of therapy is unknown. This proposal sets a standard of care for chiropractors who provide ECSW therapy under anesthesia to patients, but does not impose any reporting requirements or necessitate equipment or supplies to comply with the proposal.

Business Impact:

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

This proposal sets a standard of care for licensed doctors of chiropractic who provide ECSW therapy under anesthesia to patients to ensure the health and safety of the public, and will not result in additional costs to businesses.

Benefits

This regulatory proposal will benefit the health and welfare of California chiropractic consumers by setting a standard of care for the provision of ECSW therapy under anesthesia to ensure that the therapy provided by the chiropractor is within the chiropractic scope for which they are trained and the protocols for patients who are sedated by anesthesia are followed by a physician and surgeon or other licensed health care professional with authority to administer anesthesia, are evaluated and monitored prior to, during and following the ECSW therapy treatment.

Worker Safety

This regulatory proposal would promote worker safety as well as patient safety, by setting parameters on the type of technology a chiropractor can use during ECSW therapy under anesthesia and the specific roles of the health care professionals involved during this therapy.

Environment

This proposal would not affect the state's environment because it would provide safety standards for chiropractors during the ECSW therapy under anesthesia procedure and greater enforcement authority for the Board to discipline licensees who violate this proposal.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

§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 by a California licensed physician and surgeon or other health care provider authorized under California law to administer anesthesia.

(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.

(f) ECSW therapy involving the use of anesthesia or anesthetic shall be performed by a licensed and competent doctor of chiropractic. The chiropractor 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.

(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.

(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 by a physician and surgeon or other health care provider who is legally authorized to administer anesthesia.

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

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), 1000-7 and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

Comments & Responses
Extracorporeal Shock Wave Therapy (ECSW)

45-DAY COMMENTS:

Comment 1.1 – Dr. Cynthia Butler, D.C. asserts that extracorporeal shockwave therapy under anesthesia (orthopedic lithotripsy) is outside the chiropractic scope of practice, contradicts with the Cree's and Tain decisions, and conflicts with Section 7 of the Chiropractic Initiative Act which limits the practice of chiropractic to that which was taught in chiropractic schools in 1922.

Suggested Response 1.1 – Staff defers to the Board Members to determine whether ECSW under anesthesia is within the chiropractic scope of practice.

Comment 2.1 – Steven Ross, M.D., Chair, Allied Health Committee, California Orthopaedic Association, believes it is unclear whether ECSW Therapy is within the scope of practice for chiropractors licensed in California. Business and Professions Code (BPC) Section 302(a)(4)(F) prohibits chiropractors from using a lithotripter. The application used by chiropractors is different; however, the technology used for this procedure is the same. Dr. Ross urges the BCE to determine whether the technology is within the scope of practice prior to moving forward with this regulatory proposal.

Suggested Response 2.1 – Staff defers to the Board Members to determine whether ECSW under anesthesia is within the chiropractic scope of practice.

Comment 3.1 – Dr. Fred Lerner, D.C., Ph.D., F.A.C.O, believes that the technology used in this proposal sounds similar to that used for lithotripsy (to break up kidney stones), which is prohibited by BPC Section 302(a)(4)(F).

Suggested Response 3.1 – Staff defers to the Board Members to determine whether ECSW is within the chiropractic scope of practice.

Comment 3.2 – Dr. Fred Lerner, D.C., believes the language is unclear as to how chiropractors can use this technology and suggests that the language be amended to limit ECSW therapy by chiropractors to musculoskeletal use only.

Suggested Response 3.2 – If the Board Members find that it is appropriate to utilize the technology used for ECSW under anesthesia, then staff agrees and recommends that the Board accept this comment and amend the language to limit ECSW therapy by chiropractors to musculoskeletal use only.

Comment 4.1 – Yvonne Choong, Associate Director, California Medical Association (CMA) asserts that this proposal is inconsistent with laws governing California hospitals that do not allow chiropractors to be members of the organized medical staff and/or perform procedures independently in the hospital. Cal. Code of Regulations Section 70703 specifies that practitioners granted privileges at a hospital must be members of the medical staff and further limits medical staff membership to physicians (and under specified conditions, dentists, podiatrists and clinical psychologists).

Suggested Response 4.1 – Staff defers this comment to the Board's legal counsel for review.

Comment 4.2 – CMA asserts that a lithotripter is the same technology used in ECSW Therapy; which is outside the chiropractic scope of practice.

Suggested Response 4.2 – Staff defers to the Board Members to determine whether the technology used in ECSW Therapy under anesthesia is within the chiropractic scope of practice.

Comment 4.3 – CMA argues that the absence of reliable study on the indications for and results of ECSW call into serious doubt the necessity of this proposed regulation.

Suggested Response 4.3 – Staff disagrees and recommends the Board reject this comment. This comment is the opinion of the CMA and evidence wasn't provided to support their assertion.

Comment 5.1 - Kimberly Kirchmeyer, Interim Executive Director, Medical Board of California (MBC), believes that this proposal violates section 7 of the Chiropractic Initiative Act as ECSW therapy under anesthesia or anesthetic is not a chiropractic method and invades the field of medicine and surgery.

Suggested Response 5.1 – Staff disagrees and recommends that the Board reject this comment. Doctors of Chiropractic do not administer anesthesia or anesthetic during ECSW under anesthesia, nor is this treatment a surgical procedure. Subdivision (c) would require anesthesia to be administered by a California licensed physician and surgeon or other health care provider authorized under California law to administer anesthesia.

Comment 5.2 - The MBC asserts that ECSW is in conflict with the decision of Tain v. State Board of Chiropractic Examiners (2005) 130 Ca. App. 4th 609, which opined that California chiropractors cannot use methods or modalities that were not included in chiropractic practice in 1922.

Suggested Response 5.2 – Staff defers to the Board Members to determine whether ECSW is within the chiropractic scope of practice.

Comment 5.3 – The MBC argues that subsection (2) is written as if ambulatory surgery centers that are accredited by an agency approved by the Board are also licensed by the California Department of Public Health, which is not the case.

Suggested Response 5.3 – Staff agrees and recommends that the Board accept this comment and amend the language.

PUBLIC HEARING COMMENTS:

Comment 1.1 – Kerrie Webb, Staff Counsel to the MBC, opposes this regulation and claims it is not consistent with statutes or case law, and violates Section 7 of the Chiropractic Initiative Act. ECSW is not a chiropractic method, was not taught in chiropractic schools in 1922, invades the field of medicine and surgery and is inconsistent with the Tain and Cree's decision.

Suggested Response 1.1: Staff defers to the Board Members to determine whether ECSW is within the chiropractic scope of practice.

Comment 1.2: The MBC asserts that subsection (2) is written as if ambulatory surgery centers that are accredited by an agency approved by the Board are also licensed by the California Department of Public Health, which is not the case.

Suggested Response 1.2: Staff agrees and recommends that the Board accept this comment and amend the language.

Comment 1.3 – The MBC argues that this proposal does not comply with the requirements of the Administrative Procedures Act, section 11349.1(a), and therefore lacks the authority to adopt this regulation as this proposal is inconsistent with statutes and case law.

Suggested Response 1.3 – Staff defers to the Board Members to determine whether ECSW is within the chiropractic scope of practice.

Comment 1.4 – The MBC believes that subsection (d) lacks context. This subsection does not state whether the purpose of the examination by a physician and surgeon is to recommend ECSW therapy treatment or whether the physician and surgeon should be informed by the chiropractor of the purpose of the ECSW procedure for the patient.

Suggested Response 1.4: Staff disagrees and recommends that the board reject this comment. This subsection was included for consistency with the Medical Practice Act. Business and Professions Code Section 2242 requires a prior examination of patients when prescribing, dispensing, or furnishing dangerous drugs and failure to comply with this section is considered unprofessional conduct. The purpose of this section is not to receive approval or evaluation of the chiropractor's recommendation for ECSW treatment, but rather to determine the fitness of the patient for the administration of anesthesia by a California licensed physician and surgeon or other health care provider authorized under California law to administer anesthesia.

Comment 1.5: The MBC asserts that subsection (c) is not in the interest of consumer protection and recommends that this subsection be amended as follows:

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

Suggested Response 1.5: Staff disagrees and recommends that the board reject this comment. California licensed physicians and surgeons are not the only qualified licensed health care professionals authorized by California law to administer anesthesia to patients. Other health care providers authorized by California law and licensed to administer anesthesia have obtained the proper education, training, and have successfully passed an examination and background check proving their proficiency and qualifications to safely administer anesthesia.

Comment 1.6: The MBC argues that this proposal may not have been properly noticed to the public as the public hearing notice and the proposed regulation documents are not posted on the BCE's website.

Suggested Response 1.6: Staff disagrees and recommends that the board reject this comment. The regulation documents were posted on the BCE's website on May 17, 2013 to coincide with the mailing and e-mailing of the 45-day Notice to all interested parties. The public

hearing notice was posted on the BCE's website on June 21, 2013, mailed and e-mailed to all interested parties, prior to the 10 days required by Government Code section 11346.8; however, these documents were inadvertently dropped from the BCE's website on June 26, 2013 when the BCE's website transitioned from OTech to DCA as required by the Governor's reorganization plan. Furthermore, Government Code section 11346.4(a)(6) requires an agency to post the notice on the website if the agency has a website. Furthermore, subdivision (f) provides that the failure to mail a notice to any person as provided in this section shall not invalidate any action taken by a state agency pursuant to this article. The notices and rulemaking documents were mailed and posted to the website as required; however, the website posting was inadvertently deleted. The BCE believes that all efforts to comply with the notice and posting requirements of the Administrative Procedures Act were made and is actively working with DCA to restore lost documents to their website.

Comment 2.1 - Cynthia Butler, D.C., claims that Ching-Jen Wang, author of the article, "Extracorporeal Shockwave Therapy in Musculoskeletal Disorders" in the Journal of Orthopaedic Surgery and Research, is biased and his results differ from other authors whose results were less positive about the consistency and standardization of results and treatment protocols. Dr. Butler provided Dr. Ching-Jen Wang's Curriculum Vitae and the following articles to support her comments:

- Study Shows SANUWAVE's Dermapace Is Significantly More Effective Than Hyperbaric Oxygen Therapy In Healing Chronic Diabetic Food Ulcers – Medical News Today News Article (March 18, 2011)
- SANUWAVE Technology Shown To Prevent Osteoarthritis Onset Over Time – Business Wire (June 13, 2012)
- Health Tronics Sells Orthopaedic Shockwave Assets by Carla Mozee – Market Pulse (August 2, 2005)
- Shock Wave Therapy (Orthotripsy) in Musculoskeletal Disorders by John A Ogden, M.D., Richard G. Alvarez, M.D., Richard Levitt, M.D, and Marie Marlow, R.N. – Clinical Orthopaedics and Related Research (2001; Number 387, p. 22)
- Orthopaedic Lithotripsy – Urology Equipment – Search by Specialty – Euromed

Suggested Response: 2.1 – Staff disagrees and recommends that the Board reject this comment. The BCE cannot comment on whether Ching-Jen Wang's results are biased as this is the opinion of the commenter. It is common to have differing results in research studies. Scientific results are dependent on a multitude of factors (i.e. type of subjects, age, medical history, medications, etc.); therefore, an inconsistency in a study's results does not necessarily prove a bias toward that treatment or technology. Furthermore, this is only one article and the Board did not rely solely on the results in this article.

Comment 2.2 – Cynthia Butler, D.C. claims that high intensity orthopedic lithotripsy is outside the chiropractic scope as CCR Section 302 prohibits the use of a lithotripter by chiropractors. She further questions why references were made identifying ultrasound as the modality for this procedure when it is actually orthopedic lithotripsy.

Suggested Response 2.1: Staff defers to the Board Members to determine whether ECSW is within the chiropractic scope of practice.

Comment 2.3 – Cynthia Butler, D.C. asserts that MUA and ECSW are very different procedures. Anesthesia is administered for MUA to reduce soft tissue splinting so that the

patient is more relaxed and the chiropractor can be more effective with the manipulation. No other clinician receives more training in manipulation than the chiropractic profession. On the other hand, ECSW therapy requires anesthesia due to the level of pain cause by disruption and irritation of tissues. This therapy did not exist until the last decade and is not taught in any American chiropractic college that she can find.

Suggested Response 2.1: Staff defers to the Board Members to determine whether ECSW is within the chiropractic scope of practice.

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

1) Extrac~~C~~orporeal Shock Wave (ECSW)/Orthotripsy,

a) **ECSW/Orthotripsy, is a technology that uses** ~~electrohydraulic, electromagnetic and/or piezoelectric principles to generate~~ mechanically generated **sound waves** ~~which are used to induce and enhance tissue repair~~to assist ~~and regeneration. This treatment creates~~ the **healing** of ~~in~~ **musculoskeletal and myoligamentous soft tissues** ~~and their tendon origins and/or attachments~~**.**

b) **ECSW/Orthotripsy is not the practice of lithotripsy and does not use a lithotripter.**

c) Low energy **ECSW/Orthotripsy** does not require anesthesia and is not subject to this regulation.

~~c)~~d) High energy ECSW/Orthotripsy does require anesthesia. When ECSW/Orthotripsy is performed with anesthesia, such procedure shall ~~may be performed in either 1) an in-clinic, outpatient setting which does not requiring anesthesia, or 2) for patient comfort, ECSW/Orthotripsy may~~ **be performed in a medical facility defined herein, under the direct supervision of a medical physician or other qualified medical provider who is authorized by law to provide anesthetic or anesthesia.**

~~d)~~e) ~~Extracorporeal Shock Wave (ECSW) therapy involvesing the use of anesthesia or anesthetic~~

~~e)~~f) **When** ECSW therapy**/Orthotripsy** involves~~ing in~~ the use of anesthesia or anesthetic, ~~may only be performed if~~ the anesthetic or anesthesia **may only be** administered by a California licensed physician and surgeon or other health care provider authorized under California law to administer anesthesia.

~~f)~~g) **When any anesthetic or anesthesia is being utilized, the patients shall be under the direct supervision of a** California licensed physician and surgeon or other health care provider authorized under California law to administer anesthesia.

~~g)~~h) **The patient who has received anesthesia may only be released by that supervising physician or authorized qualified medical provider,** a California licensed physician and surgeon or other health care provider authorized under California law to administer anesthesia.

2) Anesthesia may be provided only in:

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

b) An ambulatory surgery center that is licensed by the California Department of Public Health Licensing and Certification Program and that is either:
(1) Operating pursuant to section 1248.1 of the Health and Safety Code or
(2) 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).

3) Notwithstanding subsection (a), above, ECSW therapy**/Orthotripsy** involving the use of Anesthesia shall not be performed in any mobile van, as defined in subdivision (h) of section 1248.1 of the Health and Safety Code.

4) ECSW therapy **/Orthotripsy** involving the use of anesthesia or anesthetic may only be administered ~~performed~~ following an appropriate prior examination of the patient, by a California licensed physician and surgeon.

5) **Whenever the ECSW/Orthotripsy involves anesthetic or anesthesia, the patient receiving anesthetic or anesthesia shall require that patient to be co-treated with the medical physician and surgeon who provided the anesthesia or anesthetic. That physician and surgeon shall be exclusively responsible for supervising all aspects of the pre-care, care while the anesthetic or anesthesia is administered, and the appropriate recovery period as determined by that physician and surgeon.**

6) The Chiropractic Doctor co-treating with the medical physician and surgeon shall only provide the ECSW/Orthotripsy portion of that care.

7) The licensed chiropractic doctor shall 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.

8) For the purpose of this section, the licensed physician or surgeon or other authorized health care provider supervising the anesthesia or anesthetic shall be the only professional who may discharge the patient. The 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.

9) 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.