BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

REVISED
NOTICE OF PUBLIC MEETING

April 16, 2015
9:00 a.m.
Department of Fish & Wildlife
3883 Ruffin Road
San Diego, CA 92123
(858)-467-4201

AGENDA

1. **OPEN SESSION** – Call to Order & Establishment of a Quorum

   Sergio Azzolino, D.C., Chair
   Heather Dehn, D.C., Vice Chair
   Julie Elginer, Dr.PH, Secretary
   Dionne McClain, D.C.
   John Roza Jr., D.C.
   Corey Lichtman, D.C.
   Frank Ruffino

2. **Pledge of Allegiance**

3. **Chair's Report**

4. **Approval of Minutes**
   February 12, 2015

5. **Executive Officer's Report**
   A. Administration
   B. Budget
   C. Licensing
   D. Enforcement
   E. Status of Memorandum of Understanding between Board of Chiropractic Examiners and Bureau of Automotive Repair Regarding Loan and Re-payment to Satisfy Judgment (Arbuckle v. BCE)

6. **Ratification of Approved License Applications**

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

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

9. **BCE Licensing, Continuing Education and Public Relations Committee Meeting Update -**
Board may take action on any item on the attached Licensing, Continuing Education and Public Relations Committee meeting agendas.

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

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

12. **Updates on Proposed Regulations**
A. Licensing Application and Continuing Education Exemptions Title 16, CCR §§ 321 & 364
B. Sponsored Free Health Care Events, Title 16, CCR §§ 309, 309.1, 309.2, 309.3, & 309.4

13. **Public Comment for Items Not on the Agenda**
Note: The Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

14. **Future Agenda Items**

15. **Hearings Re: Petition for Reinstatement of Revoked License (Time Certain 12:00 P.M.)**
A. Ekechi Nwoga
B. Thomas Pollock
C. Mohammad Nikkhah

16. **Closed Session**
The Board will meet in Closed Session to:
A. Deliberate on Disciplinary Decisions and Petitions Pursuant to California Government Code Section 11126(c)(3)
B. Receive Advice from Legal Counsel Pursuant to California Government Code Section 11126(e) Regarding:
   1) Jonathan Widenbaum, D.C. v. California Department of Consumer Affairs/Board of Chiropractic Examiners, Cal.Ct.App.(1st app. Dist.), Case No. A142454
   2) Hugh Lubkin, D.C. v. Board of Chiropractic Examiners
   Workers' Compensation Case No. ADJ7361379

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

18. **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, unless noticed as "Time Certain." 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@dca.ca.gov or send a written request to the Board of Chiropractic Examiners, 901 P Street, Suite 142A, Sacramento, CA 95814. 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

Approval Of Minutes

Exhibit 4

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES

February 12, 2015
Palmer College of Chiropractic West Campus
90 E. Tasman Drive, Room 142
San Jose, CA 95134

DRAFT

Board Members Present
Sergio Azzolino D.C., Chair
Heather Dehn, D.C., Vice Chair
Julie Elginer, Dr.PH, Secretary
Dionne McClain, D.C.
John Roza, Jr., D.C.
Corey Lichtman, D.C.
Frank Ruffino

Staff Present
Robert Puleo, Executive Officer
Kristy Schieldge, Attorney III
Sandra Walker, Staff Services Manager I
Marlene Valencia, Associate Governmental Program Analyst
Dixie Van Allen, Associate Governmental Program Analyst
Valerie James, Management Services Technician

Call to Order
Dr. Azzolino called the meeting to order at 8:10 a.m.

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

Pledge of Allegiance
Mr. Ruffino led the Pledge of Allegiance.

Chair's Report
Dr. Azzolino thanked Dr. Meeker for allowing the Board to hold its meeting on the Palmer Campus. He also thanked his fellow Board members for re-electing him to Chair and congratulated Dr. Dehn and Dr. Elginer on their re- election to Vice Chair and Secretary. He provided an overview on the Board's 2014 accomplishments and highlighted some of the significant projects that the Board completed in the past year. He emphasized the board's outreach efforts such as holding board meetings at chiropractic colleges, engaging chiropractic schools and associations in discussions and research on emerging issues facing the Board, consumers, and the chiropractic profession. He noted that we are opening lines of communications with other Health Care Boards and Professions, keeping the Board's website and social media sites current and reinstating the BCE newsletter. Lastly, he announced that this will be Ms. Schieldge last meeting and announced that Spencer Walker will be returning as the Board's Legal Counsel.

Welcome Presentation and Introduction from William Meeker, DC, MPH, President Palmer College of Chiropractic West

Dr. Meeker welcomed the Board and staff to Palmer Chiropractic College West. He gave a brief overview of the enrollment at Palmer College both in California and out of state. He emphasized the school's mission to promote education, deliver heath care and advance knowledge through research.

Approval of Minutes

MOTION: DR. ELGINER MOVED TO APPROVE THE SEPTEMBER 25, 2014 MINUTES.
SECOND: MR.RUFFINO SECONDED THE MOTION
VOTE: 7-0 (DR. AZZOLINO-AYE, DR. DEHN-AYE, DR. ELGINER-AYE, DR. LICHTMAN-AYE, DR. MCCLAIN-AYE, DR. ROZA-AYE, MR. RUFFINO-AYE)
MOTION: CARRIED

MOTION: DR. ELGINER MOVED TO APPROVE THE OCTOBER 28, 2014 MINUTES WITH THE FOLLOWING AMENDMENTS:

- ***PAGE 1- ROLL CALL – THE MINUTES SHOULD STATE DR. ELGINER CALLED ROLL***
- ***PAGE 1-CHAIR'S REPORT- 2ND SENTENCE – DELETE "TO" IN THE PHRASE "TO INFORM STUDENTS..."***
- ***PAGE 5, PARAGRAGH 5- THE MINUTES SHOULD STATE THAT DR. AZZOLINO MADE THE MOTION***

SECOND: DR. DEHN SECONDED THE MOTION
VOTE: 7-0 (DR. AZZOLINO-AYE, DR. DEHN-AYE, DR. ELGINER-AYE, DR. LICHTMAN-AYE, DR. MCCLAIN-AYE, DR. ROZA-AYE, MR. RUFFINO-AYE)
MOTION: CARRIED

MOTION: DR. ELGINER MOVED TO APPROVE THE JANUARY 27, 2015 MINUTES.
SECOND: MR.RUFFINO SECONDED THE MOTION
VOTE: 7-0 (DR. AZZOLINO-AYE, DR. DEHN-AYE, DR. ELGINER-AYE, DR. LICHTMAN-AYE, DR. MCCLAIN-AYE, DR. ROZA-AYE, MR. RUFFINO-AYE)
MOTION: CARRIED

Executive Officer's Report

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

Mr. Puleo announced that all positions are filled except for the Supervising Special Investigator position, for which we are actively recruiting.

Mr. Puleo referred to two fund conditions and provided an overview of both, one addressed the repayment of the loan for the Arbuckle judgment to Bureau of Automotive Repair (BAR) and the overall budget projections for fiscal years 2014- 2018.

Mr. Puleo summarized the Board's licensing statistics and stated there haven't been any significant changes since the last meeting. The total licensee population remains stable at approximately 13,400.

Mr. Puleo reported on the enforcement statistics and provided a brief overview of processing time frames on complaints. Dr. Azzolino thanked the staff for their efforts in keeping the processing times down for closure of cases.

Ratification of Approved License Applications

MOTION: DR. DEHN MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS.
SECOND: DR. AZZOLINO SECONDED THE MOTION
VOTE: 7-0 (DR. AZZOLINO-AYE, DR. DEHN-AYE, DR. ELGINER-AYE, DR. LICHTMAN-AYE, DR. MCCLAIN-AYE, DR. ROZA-AYE, MR. RUFFINO-AYE)
MOTION: CARRIED
The Board ratified the attached list of approved license applications incorporated herein (Attachment A).

Ratification of Approved Continuing Education Providers

MOTION: DR. DEHN MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDERS.
SECOND: MR. RUFFINO SECONDED THE MOTION
VOTE: 7-0 (DR. AZZOLINO-AYE, DR. DEHN-AYE, DR. ELGINER-AYE, DR. LICHTMAN-AYE, DR. MCCLAIN-AYE, DR. ROZA-AYE, MR. RUFFINO-AYE)
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
There were no denied license applications.

BCE Licensing, Continuing Education and Public Relations Committee Meeting Update
Dr. Dehn reported that the Licensing, Continuing Education and Public Relations Committee is currently working on making changes to Continuing Education (CE) regulation to monitor CE classes and developing new proficiency standards for (CE) providers. There was discussion about delegating approval of providers and CE courses to accrediting organizations. This would require the Board to review the standards of the accrediting organization and amend the regulations to provide the accrediting organization with the authority to approve providers and courses. Ms. Schieldge commented that other health care boards are going through the rulemaking process to implement a similar approval process for CE providers. Lastly, the Committee is working with DCA on pamphlets about the Board, geared towards licensees and also an informational pamphlet geared towards the public on what to expect when seen by a Chiropractor.

BCE Government Affairs Committee Meeting Update
Dr. Elginer provided a summary of the committee's 2014 accomplishments. She thanked Mr. Ruffino, Dr. McClain, Mr. Puleo and Ms. Van Allen for their efforts in reviewing legislative bills. She provided a brief overview of the committee's progress on action items in the Strategic plan and discussed the board member mentorship program. Ms. Schieldge advised the Board members to keep the Bagley-Keene Open Meetings Act in mind while providing mentorship. Dr. Elginer and Dr. Azzolino directed the Board's staff to look into platforms to allow access via internet for Board meetings. Ms. Schieldge commented that an issue that could arise with the American's with Disabilities Act would require closed caption for the hearing impaired. Dr. Elginer suggested Mr. Puleo place internet based platforms on the agenda of the next Health Care Executive Officers Council (Council) meeting. Lastly, Dr. Elginer discussed recommended revisions to the Board Member Administrative Procedure Manual, which is reviewed every year.

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MOTION: DR. ELGINER, ON BEHALF OF THE GOVERNMENT AFFAIRS COMMITTEE MOVES TO APPROVE THE BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL BE APPROVED WITH AMENDEMENTS AS DISCRIBED ON PAGES 9, 11 AND 28.
VOTE: 7-0 (DR. AZZOLINO-AYE, DR. DEHN-AYE, DR. ELGINER-AYE, DR. LICHTMAN -AYE, DR. MCCLAIN-AYE, DR. ROZA-AYE, MR. RUFFINO-AYE)
MOTION: CARRIED

BCE Enforcement Committee Meetings Update
Dr. Azzolino spoke on possible action items on advertising of chiropractic specialties and referred to the handouts, provided by Ms. Schieldge, which included a copy of Title 16, California Code of regulations section 1363.5 and litigation involving the Medical Board and Dental Board. Dr. Elginer requested clarification in regards to chiropractic specialties. Dr. Azzolino stated that further research is needed and the Board may need to define "specialist" through regulation so that it is better understood by the public. Ms. Schieldge provided an explanation of misleading and false advertising and advised that proving speech in advertising as misleading is difficult. Dr. Azzolino also discussed possible action on proposed language regarding maintenance of patient records (Amendment to Title 16, California Code of Regulations Sections 312.2 and 318). The language will provide direction on how to handle records of deceased or incapacitated Chiropractors. The committee also discussed revisions to the expert training application and the guidelines. Dr. Azzolino directed Mr. Puleo to coordinate two Board members to attend each expert training.

MOTION: DR. DEHN MOVED THAT ENFORCEMENT COMMITTEE HAS THE AUTHORITY TO APPROVE APPLICATION AND THE GUIDE BOOK OF EXPERT CONSULTANTS.
SECONDED: DR. ELGINER SECONDED THE MOTION
VOTE: 7-0 (DR. AZZOLINO-AYE, DR. DEHN-AYE, DR. ELGINER-AYE, DR. LICHTMAN-AYE, DR. MCCLAIN-AYE, DR. ROZA-AYE, MR. RUFFINO-AYE)
MOTION: CARRIED

Updates on Proposed regulations Title 16, CCR Sections 321 and 364 (Licensing Application and Continuing Education Exemptions) and Title 16 CCR Sections 309, 309.1, 309.32, 309.3 & 309.4 (Sponsored Free Health Care Events)
Ms. Van Allen provided updates on both rulemaking proposals. The Licensing Application and Continuing Education regulation is currently being reviewed by DCA's Division of Legislative and Policy Review (Division). The Sponsored Free Health Care has been submitted to the Office of Administrate Law (OAL) on 1/21/15.

The Board moved to Agenda Item 17- Closed Session to receive advice from Legal Counsel Pursuant to California Government Code Section 11126(e) Regarding:

1) Jonathan Widenbaum, D.C. v. California Department of Consumer Affairs/Board of Chiropractic Examiners, Cal.Ct.App.(1st app. Dist.), Case No. A142454
2) Hugh Lubkin, D.C. v. Board of Chiropractic Examiners
   Workers' Compensation Case No. ADJ7361379

Public Comment for Items Not on the Agenda
Dr. Lichtman requested Lapel Pins for all Board members.
Dr. Roza would like to discuss addressing question number 3 on the Petitioner Application.

Hearings Re: Reinstatement of Revoked License
Administrative Law Judge, Jill Schlichmann, presided over and Deputy Attorney General, Leslie E. Brast, appeared on behalf of the people of the State of California in the following hearings:

A. Bruce Ankrom
B. Dmitriy Sklyut

Hearings Re: Petition for Reduction of Penalty
Administrative Law Judge, Jill Schlichmann, presided over and Deputy Attorney General, Leslie E. Brast, appeared on behalf of the people of the State of California in the following hearing:

A. Ali-Duy Nguyen, D.C. - DC 18151

Closed Session
Following oral testimonies, the Board went into Closed Session for deliberation and determinations regarding petitioners.

Open Session
The Board went back into Open Session to adjourn the meeting.

Adjournment
Dr. Azzolino adjourned the meeting at 3:25 p.m.

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(ATTACHMENT A)

Approval By Ratification of Formerly Approved License Applications
October 1, 2014 – December 31, 2014

Name (First, Middle, Last)			Date Issued	DC#
Jason	Charles	Braun	10/2/2014	33087
David	Tanner	Brooks	10/2/2014	33088
Ian	Christian	Cooke	10/2/2014	33089
Cassandra	Leigh Angott	Ferguson	10/2/2014	33090
Mitchell	Steven	Simon	10/2/2014	33091
Luke	Richard Anthony	Stringer	10/2/2014	33092
Maurice		Daoud	10/9/2014	33093
Allison	Hope	Evans	10/9/2014	33094
Scott	Aubrey	Howard	10/9/2014	33095
Eun	Chu	Kim	10/9/2014	33096
Carling	Frances	McMichael	10/9/2014	33097
Russel		Myers	10/9/2014	33098
Peter	Kes	Rath	10/9/2014	33099
Eric	Ryan	Schaid	10/9/2014	33100
Jason	Hale	Fitch	10/16/2014	33101
Daniel	Lee	Mendez	10/16/2014	33102
Alison	Lea	Stamos	10/16/2014	33103
Anh-Tu	Thuy	Vu	10/16/2014	33104
Jason	Luke	Hodges	10/17/2014	33105
Jennifer	Melanie	Mulford	10/17/2014	33106
Regina	Marcella	Adams	10/21/2014	33107
Thomas	Michael	Drzemala	10/21/2014	33108
Robert	Richard	Fano	10/21/2014	33109
Trevor	Ross	Miller	10/21/2014	33110
Tina	Dawn	Pearl	10/21/2014	33111
Kimia		Akhavan	10/24/2014	33112
Andrew	Bradley	Buser	10/24/2014	33113
Misty	Rhiannon	Hutton	10/24/2014	33114
Faiz		Mashood	10/24/2014	33115
John	C	Argerich, Jr	10/30/2014	33116
Jason	Joseph	Cindric	10/30/2014	33117
Kim		Nguyen	10/30/2014	33118
Daniel	Alan	Woodward	10/30/2014	33119

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Andres	Gabriel	Garcia	11/6/2014	33120
Nya		Jahdai-Brown	11/13/2014	33121
Jennifer	Nichole	Maltby	11/13/2014	33122
Tania	Ayse	Williams	11/13/2014	33123
Karla		Mehlenbacher	11/14/2014	33124
Patrick	Sweigert	Ryan	11/14/2014	33125
Nicholas	Adam	Sorenson	11/14/2014	33126
Sanjeni	Ramesh	Patel	11/20/2014	33127
Derek	Quan	Pham	11/20/2014	33128
Jasmeen		Singh	11/20/2014	33129
Aimee	Marie	Bautista	12/4/2014	33130
Ameriah	Arbelyn	Beam	12/4/2014	33131
Christopher	Geoffrey	Canning	12/4/2014	33132
Joel	Wendell	Huff	12/4/2014	33133
Michael	Allen	Lopez	12/4/2014	33134
Adriana		Mekhael	12/4/2014	33135
Liesel	Gabrielle	Orend	12/4/2014	33136
Hedieh		Rastegar Aria	12/4/2014	33137
Gregory	Allan	Smith	12/4/2014	33138
Kris	Michael	Isakson	12/5/2014	33139
Sean	Gregory	Levesque	12/5/2014	33140
Matthew	Nielsen	Smith	12/5/2014	33141
David	Justin	Valle	12/12/2014	33142
Devin	Kent	Weatherley	12/12/2014	33143
Maymanat	Shadi	Ashtiani	12/16/2014	33144
Luka	Charles	Musich	12/16/2014	33145
Jeffrey	Allen	Spaulding	12/16/2014	33146
Kian	Mohammad Hakimi	Javid	12/17/2014	33147
Joshua	Daniel	Wideman	12/17/2014	33148
Kevin	Lane	Hummel	12/19/2014	33149
David	Salvatore	Sosa	12/19/2014	33150
John	David	Appleman	12/31/2014	33151
Devon	Leigh	Gaston	12/31/2014	33152
George		Boghozian	12/31/2014	33153
Jeffrey	Luke	Boyajian	12/31/2014	33154
Tamara	Lee	MacIntyre	12/31/2014	33155
Sachin	Amol	Narvekar	12/31/2014	33156

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(ATTACHMENT B)

Ratification for New Continuing Education Providers

CONTINUING EDUCATION PROVIDERS	DATE APPROVED
1. Kurt Spurgin, DC, and Dennis Spurgin, DC	02/12/15
2. National Provider Compliance Corp	02/12/15
3. David M Bleiler, DC	02/12/15
4. Stephen Harkins, DC	02/12/15
5. Mitchell Brian Mays, DC	02/12/15
6. Neil Asher Healthcare	02/12/15
7. Premier Research Labs	02/12/15
8. Scott Sawyer, DC	02/12/15
9. American Chiropractic Association	02/12/15
10. Chad D Warshel, DC	02/12/15
11. Carol J Phillips, DC	02/12/15
12. Anna Manayan	02/12/15
13. Gregory Melvin, DC	02/12/15
14. Mark R Algee, DC	02/12/15
15. Marcus Ettinger, DC	02/12/15
16. Marc Moramarco, DC	02/12/15

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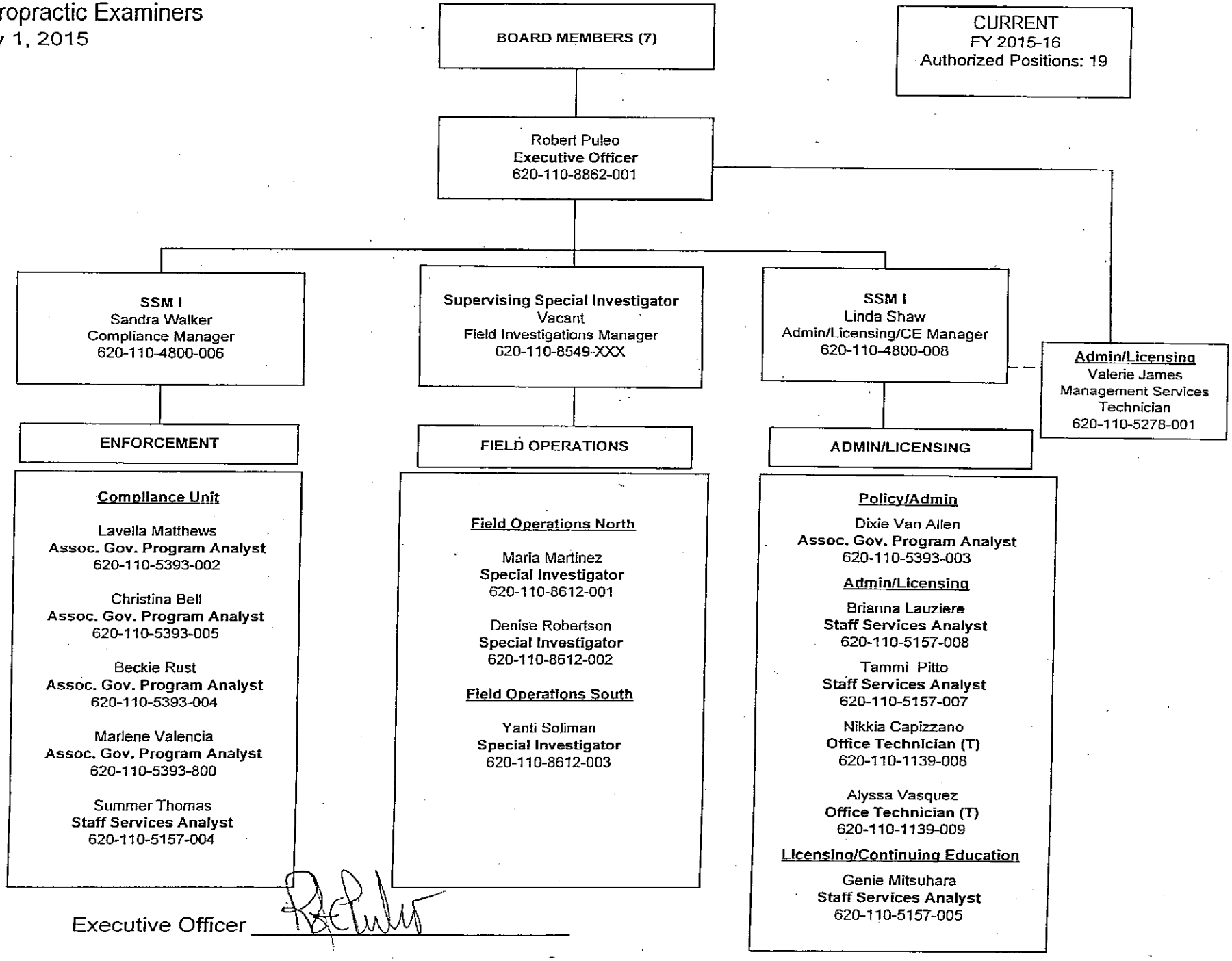
BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Executive Officer's Report

Exhibit 5 (A, B, C, D)

)epartment of Consumer Affairs
e Board of Chiropractic Examiners
January 1, 2015



Executive Officer _____

Personnel Office _____

Rev. 01/14/15

0152 - Board of Chiropractic Examiners
Analysis of Fund Condition
(Dollars In Thousands)

1/29/2015

CURRENT

	ACTUAL 2013-14	CY 2014-15	BY 2015-16	BY+1 2016-17	BY+2 2017-18
BEGINNING BALANCE	$ 2,294	$ 2,923	$ 2,946	$ 2,706	$ 2,478
Prior Year Adjustment	$ 67	$ -	$ -	$ -	$ -
Adjusted Beginning Balance	$ 2,361	$ 2,923	$ 2,946	$ 2,706	$ 2,478
REVENUES AND TRANSFERS					
Revenues:					
125600 Other regulatory fees	$ 153	$ 29	$ 29	$ 29	$ 29
125700 Other regulatory licenses and permits	$ 4	$ 177	$ 177	$ 177	$ 177
125800 Renewal fees	$ 3,379	$ 3,297	$ 3,297	$ 3,297	$ 3,297
125900 Delinquent fees	$ 53	$ 53	$ 53	$ 53	$ 53
150300 Income from surplus money investments	$ 7	$ 3	$ 16	$ 16	$ 6
161400 Miscellaneous revenues	$ 2	$ 3	$ 3	$ 3	$ 3
161900 Other Revenue - Cost Recoveries	$ 9	$ -	$ -	$ -	$ -
164600 Fines and Forfeitures	$ 25	$ -	$ -	$ -	$ -
Totals, Revenues	$ 3,632	$ 3,562	$ 3,575	$ 3,575	$ 3,565
Transfers from Other Funds					
FO0421 From Vehicle Inspection and Repair Fund per Item 1111-011-0421, Budget Act of 2014	$ -	$ 3,000	$ -	$ -	$ -
Totals, Revenues and Transfers	$ 3,632	$ 6,562	$ 3,575	$ 3,575	$ 3,565
Totals, Resources	$ 5,993	$ 9,485	$ 6,521	$ 6,281	$ 6,043
EXPENDITURES					
Disbursements:					
0840 State Controller (State Operations)	$ -	$ -	$ -	$ -	$ -
1110 Program Expenditures (State Operations)[a]	$ 3,053	$ 3,839	$ 3,803	$ 3,803	$ 3,879
8500 Program Expenditures (State Operations)	$ -	$ -	$ -	$ -	$ -
8880 Financial Information System for CA (State Operations)	$ 17	$ 3	$ 12	$ -	$ -
9670 Equity Claims of California Victim Compensation and Government Claims Board and Settlements and Judgements by Department of Justice	$ -	$ 2,698	$ -	$ -	$ -
Total Disbursements	$ 3,070	$ 6,540	$ 3,815	$ 3,803	$ 3,879
FUND BALANCE					
Reserve for economic uncertainties	$ 2,923	$ 2,946	$ 2,706	$ 2,478	$ 2,164
Months In Reserve	5.4	9.3	8.5	7.7	6.6

Note: $1k rounding adjustment in FY 2014-15.

0152 - Board of Chiropractic Examiners
Analysis of Fund Condition

1/29/2015

(Dollars in Thousands)

REPAYMENT SCENARIO

	ACTUAL 2013-14	CY 2014-15	BY 2015-16	BY+1 2016-17	BY+2 2017-18
BEGINNING BALANCE	$ 2,294	$ 2,923	$ 1,946	$ 1,456	$ 978
Prior Year Adjustment	$ 67	$ -	$ -	$ -	$ -
Adjusted Beginning Balance	$ 2,361	$ 2,923	$ 1,946	$ 1,456	$ 978
REVENUES AND TRANSFERS					
Revenues:					
125600 Other regulatory fees	$ 153	$ 29	$ 29	$ 29	$ 29
125700 Other regulatory licenses and permits	$ 4	$ 177	$ 177	$ 177	$ 177
125800 Renewal fees	$ 3,379	$ 3,297	$ 3,297	$ 3,297	$ 3,297
125900 Delinquent fees	$ 53	$ 53	$ 53	$ 53	$ 53
150300 Income from surplus money investments	$ 7	$ 3	$ 16	$ 16	$ 2
161400 Miscellaneous revenues	$ 2	$ 3	$ 3	$ 3	$ 3
161900 Other Revenue - Cost Recoveries	$ 9	$ -	$ -	$ -	$ -
164600 Fines and Forfeitures	$ 25	$ -	$ -	$ -	$ -
Totals, Revenues	$ 3,632	$ 3,562	$ 3,575	$ 3,575	$ 3,561
Transfers from Other Funds					
FO0421 From Vehicle Inspection and Repair Fund per Item 1111-011-0421, Budget Act of 2014	$ -	$ 3,000	$ -	$ -	$ -
Transfers to Other Funds					
Repayment Scenario (from State Board of Chiropractic Examiners Fund to Vehicle Inspection and Repair Fund)	$ -	$ -1,000	$ -250	$ -250	$ -250
Totals, Revenues and Transfers	$ 3,632	$ 5,562	$ 3,325	$ 3,325	$ 3,311
Totals, Resources	$ 5,993	$ 8,485	$ 5,271	$ 4,781	$ 4,289
EXPENDITURES					
Disbursements:					
0840 State Controller (State Operations)	$ -	$ -	$ -	$ -	$ -
1110 Program Expenditures (State Operations)[a]	$ 3,053	$ 3,839	$ 3,803	$ 3,803	$ 3,879
8500 Program Expenditures (State Operations)	$ -	$ -	$ -	$ -	$ -
8880 Financial Information System for CA (State Operations)	$ 17	$ 3	$ 12	$ -	$ -
9670 Equity Claims of California Victim Compensation and Government Claims Board and Settlements and Judgements by Department of Justice	$ -	$ 2,698	$ -	$ -	$ -
Total Disbursements	$ 3,070	$ 6,540	$ 3,815	$ 3,803	$ 3,879
FUND BALANCE					
Reserve for economic uncertainties	$ 2,923	$ 1,946	$ 1,456	$ 978	$ 410
Months In Reserve	5.4	6.1	4.6	3.0	1.2

Notes:

a. $1k rounding adjustment in FY 2014-15.

b. The Board will have the flexibility to adjust repayment amounts if the fund is projected to fall below 3.0 months in reserve.

BOARD OF CHIROPRACTIC EXAMINERS
LICENSING TRENDS

Total Population of Chiropractic Licenses

Month	Total Licenses
October	13,389
November	13,369
December	13,360
January	13,333
February	13,352
March	13,349

New Chiropractic License Issued

Month	Received	Issued
October	19	33
November	27	10
December	39	27
January	53	11
February	22	51
March	15	32

Number of Restored Cancelled Licenses

Month	Received	Issued
October	7	4
November	3	0
December	3	5
January	4	4
February	4	3
March	4	0

New Satellite Office Certificates Issued

Month	Received	Issued
October	135	70
November	124	148
December	123	122
January	101	33
February	84	129
March	93	85

Corporation Registrations Issued

Month	Received	Issued
October	6	5
November	9	3
December	8	10
January	16	10
February	13	12
March	7	6

Licensing Population as of March 31, 2015

License Type	Clear Licenses
Chiropractors	13,349
Satellite Offices	3,789
Corporation Registrations	1,377

Applications Received and Processed – January 1, 2015 through March 31, 2015

Application Type	Received	Issued	Denied	Pending
Initial	90	94	0	89
Reciprocal	3	1	0	13
Restorations (Cancelled & Forfeiture)	47	24	0	11
Corporation	36	28	2	11

Compliance Unit Statistics

Fiscal Year	10/11	11/12	12/13	13/14	14/15*
Complaints					
Received	497	391	386	487	420
Pending	137	125	159	214	279
Closed with Insufficient Evidence	96	89	57	88	42
Closed with No Violation	135	93	84	140	68
Closed with Merit	140	120	95	148	138
Letter of Admonishment	4	1	2	5	2
Citations and Fines Issued (Total Fine Amount)	47($12,700)	26($37,400)	33($19,400)	26($18,500)	15($11,900)
Accusations					
Filed	68	41	34	38	14
Pending	130	99	73	56	63
Revoked	17	14	11	12	7
Revocation Stayed: Probation	26	20	31	15	7
Revocation Stayed: Suspension and Probation	9	12	5	4	1
Suspension	0	0	0	0	0
Suspension Stayed: Probation	0	0	0	0	0
Suspension and Probation	0	0	0	0	0
Voluntary Surrender of License	9	7	11	8	6
Dismissed/Withdrawn	10	21	9	3	3
Statement of Issues					
Filed	4	5	1	5	1
Denied	0	0	0	2	1
Probationary License	3	4	3	1	2
Withdrawn	0	0	1	2	1
Granted	1	0	0	0	0
Petition for Reconsideration					
Filed	0	2	4	3	0
Granted	0	0	0	0	0
Denied	0	0	2	2	0
Petition for Reinstatement of License					
Filed	7	7	6	5	8
Granted	2	2	2	1	1
Denied	10	6	5	3	2
Petition for Early Termination of Probation					
Filed	4	1	6	11	4
Granted	2	1	1	0	0
Denied	4	1	1	3	5
Petition for Modification of Probation					
Filed	0	0	0	3	2
Granted	0	0	0	0	1
Denied	0	0	0	1	0
Petition by Board to Revoke Probation					
Filed	13	6	2	11	5
Revoked	2	8	3	5	2
Probation Cases					
Active	138	89	139	135	123

* FY 14/15: July 1, 2014 –March 31, 2015

Revised: April 7, 2015

Compliance Unit Statistics Legend

Separate Handout

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):

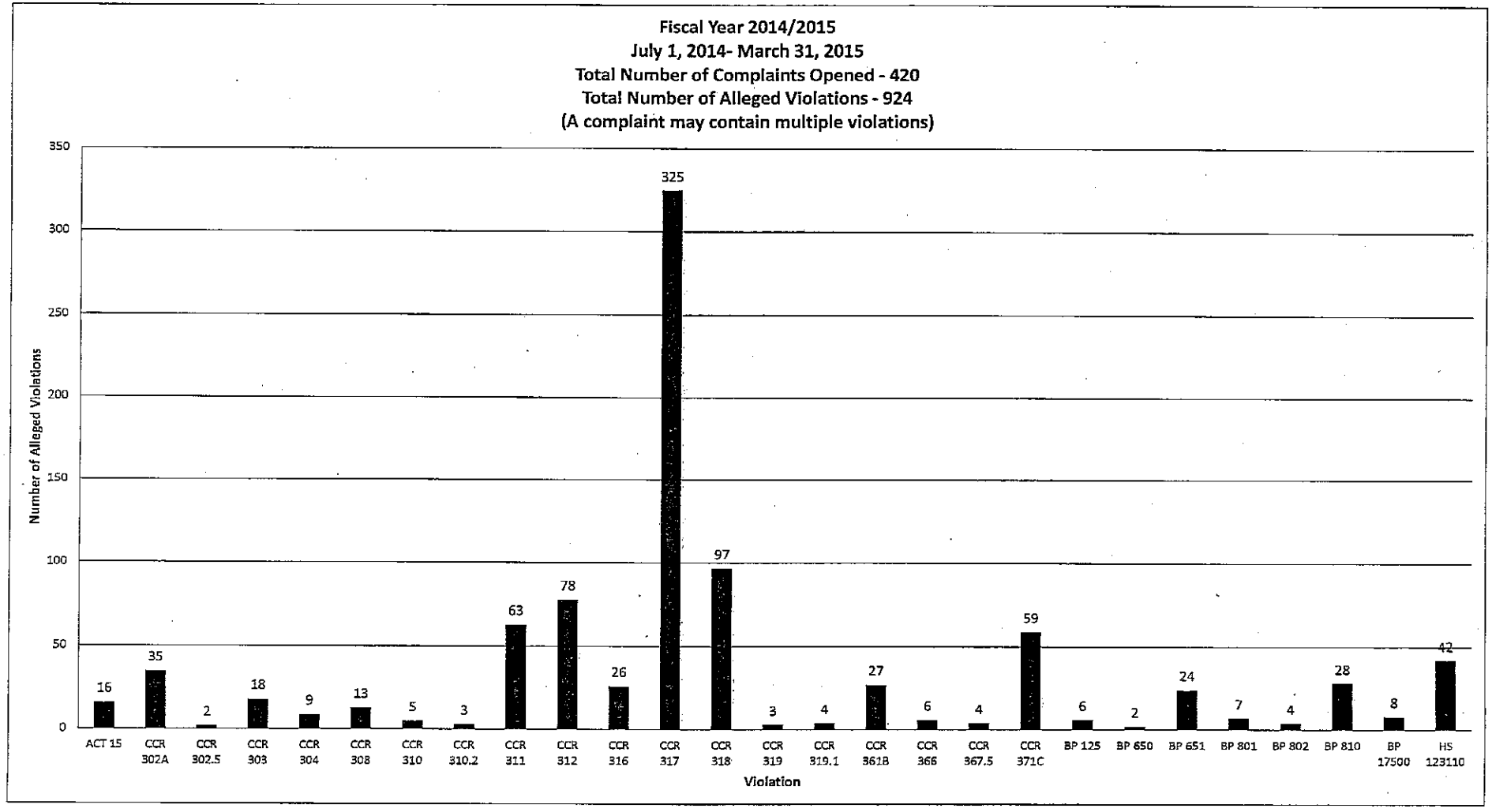
302(a) – Scope of Practice
302.5 – Use of Laser
303 – Filing of Addresses
304 – Discipline by Another State
308 – Display of License
311 – Advertisements
312 – Illegal Practice
316 – Responsibility for Conduct on Premises
317 – Unprofessional Conduct
318 – Chiropractic Patient Records/Accountable Billing
319 – Free or Discount Services
319.1 – Informed Consent
361(b) – 24 Hour CE Requirement
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 (a) – Professional Reporting Requirements (Ins-malpractice settlements)
802 (a) – Professional Reporting Requirements (Lic-malpractice settlements)
810 – Insurance Fraud
1051 – Apply for a Corporation with the Board
1054 – Name of Chiropractic Corporation
17500 – Unlawful Advertising

Health and Safety Code (HS):

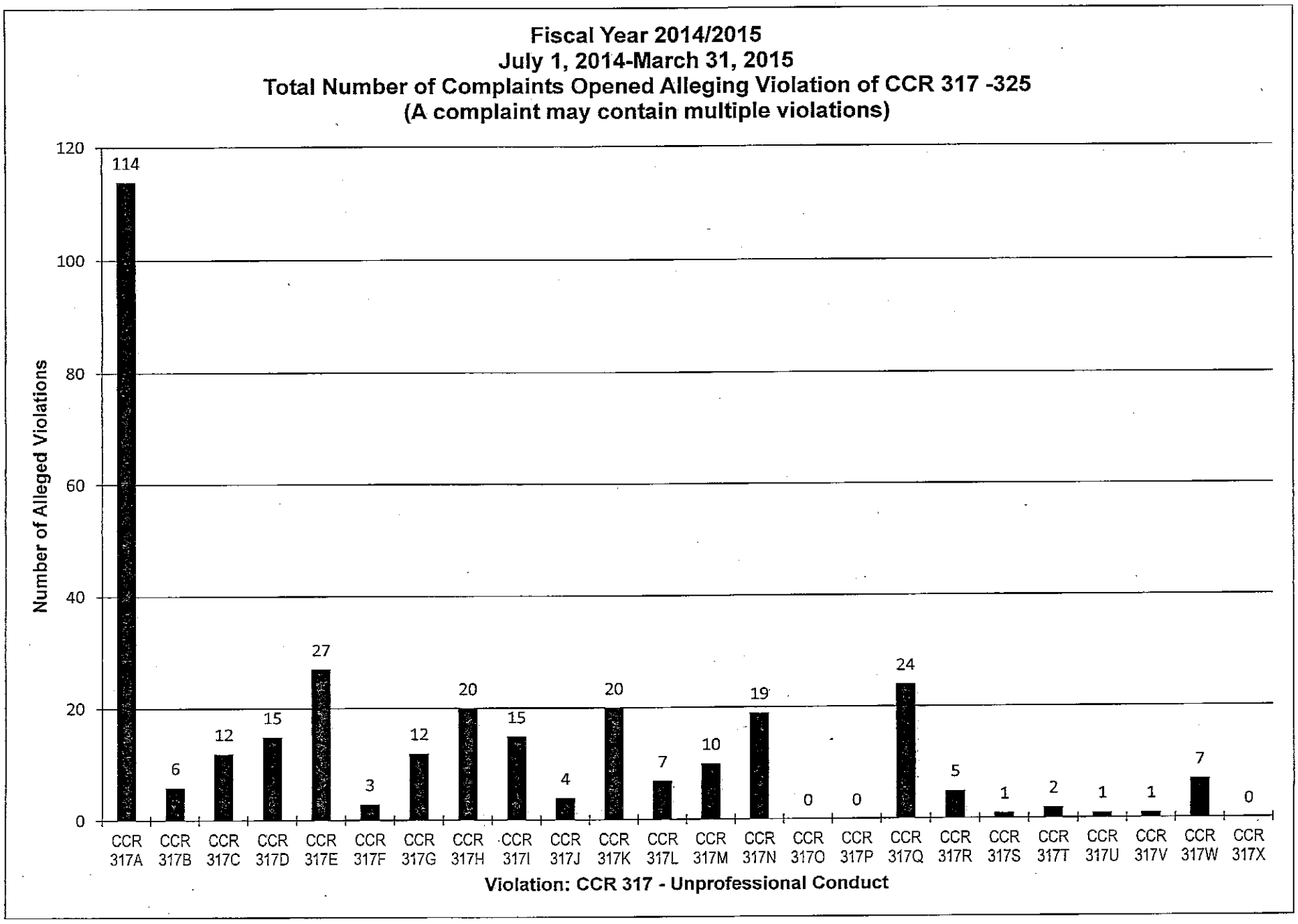
123110 – Patient Access to Health Records

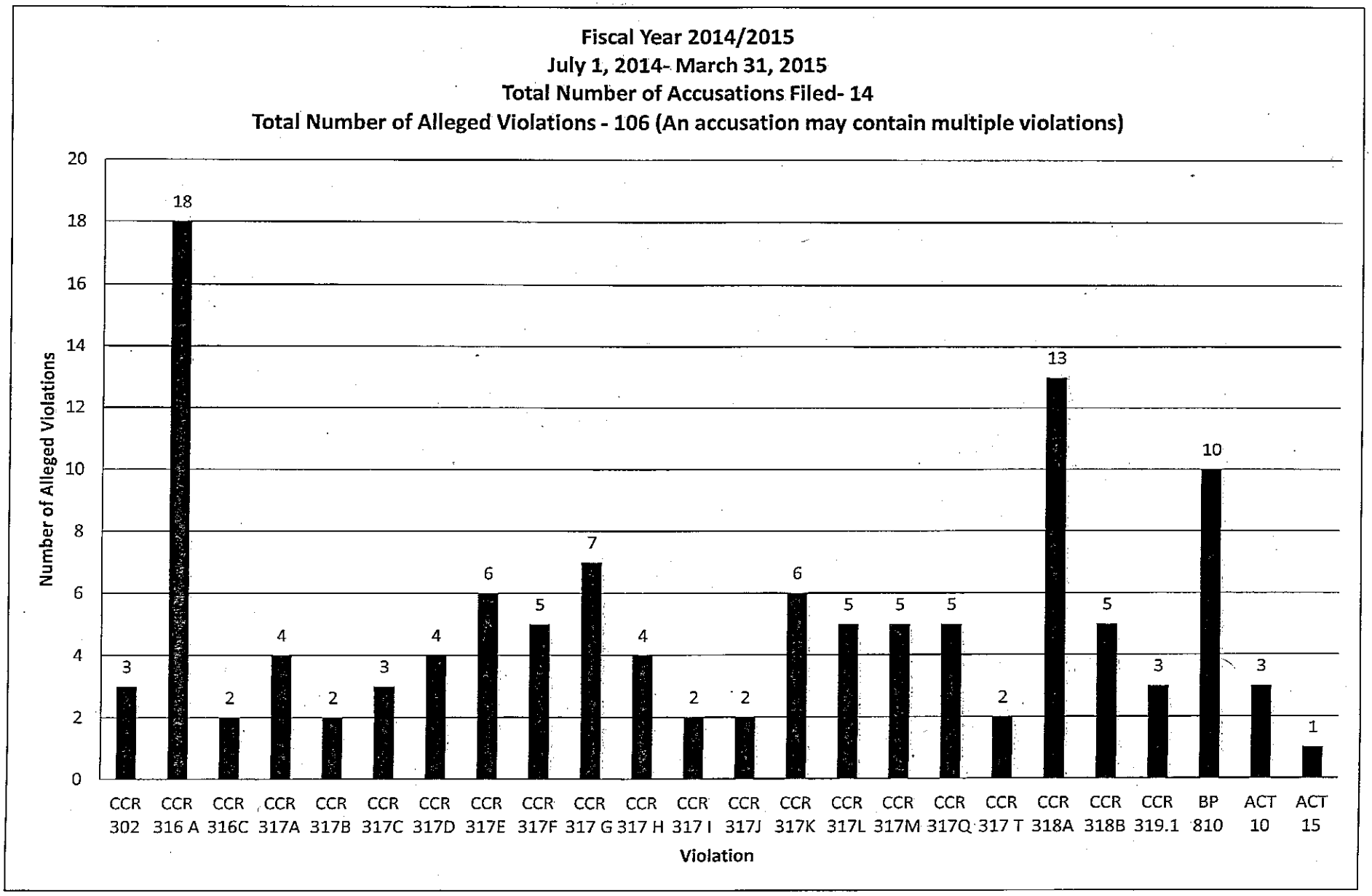

Fiscal Year 2014/2015
July 1, 2014- March 31, 2015
Total Number of Complaints Opened - 420
Total Number of Alleged Violations - 924
(A complaint may contain multiple violations)
Number of Alleged Violations
0
50
100
150
200
250
300
350
16
35
2
18
9
13
5
3
63
78
26
325
97
3
4
27
6
4
59
6
2
24
7
4
28
8
42
ACT 15
CCR 302A
CCR 302.5
CCR 303
CCR 304
CCR 308
CCR 310
CCR 310.2
CCR 311
CCR 312
CCR 316
CCR 317
CCR 318
CCR 319
CCR 319.1
CCR 361B
CCR 366
CCR 367.5
CCR 371C
BP 125
BP 650
BP 651
BP 801
BP 802
BP 810
BP 17500
HS 123110
Violation

Violation Codes/Descriptions

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

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


Fiscal Year 2014/2015
July 1, 2014-March 31, 2015
Total Number of Complaints Opened Alleging Violation of CCR 317 -325
(A complaint may contain multiple violations)
Number of Alleged Violations
120
100
80
60
40
20
0
114
6
12
15
27
3
12
20
15
4
20
7
10
19
0
0
24
5
1
2
1
1
7
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


Fiscal Year 2014/2015
July 1, 2014- March 31, 2015
Total Number of Accusations Filed- 14
Total Number of Alleged Violations - 106 (An accusation may contain multiple violations)
Number of Alleged Violations
0
2
4
6
8
10
12
14
16
18
20
3
18
2
4
2
3
4
6
5
7
4
2
2
6
5
5
5
2
13
5
3
10
3
1
CCR 302
CCR 316 A
CCR 316C
CCR 317A
CCR 317B
CCR 317C
CCR 317D
CCR 317E
CCR 317F
CCR 317 G
CCR 317 H
CCR 317 I
CCR 317J
CCR 317K
CCR 317L
CCR 317M
CCR 317Q
CCR 317 T
CCR 318A
CCR 318B
CCR 319.1
BP 810
ACT 10
ACT 15
Violation

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Ratification of Approved License Applications

Exhibit 6

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS

EDMUND G. BROWN JR., GOVERNOR

MEMORANDUM

Date: April 6, 2015

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 April 16, 2015, public meeting.

Between January 1, 2015 and March 31, 2015, 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
January 1, 2015 – March 31, 2015

Name (First, Middle, Last)			Date Issued	DC#
Nicholas	Guy	Jung	1/14/2015	33157
Brian	Robert	Murer	1/14/2015	33158
Majed	Andre	Nagoulat	1/14/2015	33159
Drew	Michael	Ruebbelke	1/14/2015	33160
Jeanne	Ann	Matwey	1/15/2015	33161
Alexandra	Lee	Johnson	1/16/2015	33162
John	Waylan	Blalock	1/28/2015	33163
Kevin	Jon	Chong	1/28/2015	33164
Eugenie	Michelle	Giasson-Gomez	1/28/2015	33165
Adam	Joseph	Mazzeo	1/28/2015	33166
Cory	David	Tedesco	1/28/2015	33167
Leah	Eeragene	Helin	2/5/2015	33168
Tonghee		Kim	2/5/2015	33169
Joie		Mazor	2/5/2015	33170
Matthew	Thomas	McCormack	2/5/2015	33171
Sabrina	Marie	Merry	2/5/2015	33172
Tomilyn		Thornberry	2/5/2015	33173
Matthew	Jon	Wong	2/5/2015	33174
Vicki	Marie	Garfola	2/5/2015	33175
Christopher	Paul	Morrow	2/5/2015	33176
Dorcas Joy	Enriquez	Altman	2/12/2015	33177
Leigh	Ann	Caulk	2/12/2015	33178
Mohammed	Ahmed	Hasanain	2/12/2015	33179
Gurjinder	Singh	Kalay	2/12/2015	33180
Youngkwang		Kim	2/12/2015	33181
Ellen	Christine	Kindelsperger	2/12/2015	33182
Grace	Ignacio	Madarang	2/12/2015	33183
Kale	Lynn Lewis	Ptacek	2/12/2015	33184
Josuke	Pierre	Tanaka	2/12/2015	33185
Irina	Andreyevna	Velichko	2/12/2015	33186
James	Paul	Yurgel, Jr	2/12/2015	33187
Caitlin	Marie Rose	Donovan	2/18/2015	33188
Cory	Eugene	Henderson	2/18/2015	33189
Taylor	Jordan	Levine	2/18/2015	33190
Alexander	Paul	Wulff	2/18/2015	33191

Jennifer	Michele	Wyman	2/18/2015	**33192**
Jacob	James	Barton	2/19/2015	**33193**
John	Barrett	Kupper	2/19/2015	**33194**
Shahen	Daniel	Simian	2/19/2015	**33195**
Daniel	Patrick	Fleming	2/20/2015	**33196**
Luis	Francisco	Jovel	2/20/2015	**33197**
Katie	Diane	Olson	2/20/2015	**33198**
Sarah	Maria	Waterkamp	2/20/2015	**33199**
Ramin		Hamzei	2/24/2015	**33200**
Scott	Robert	Jeffers	2/24/2015	**33201**
Hakop		Karapetyan	2/24/2015	**33202**
Cassandra	Lynn	Marsden	2/24/2015	**33203**
Matthew	Michael	Mutch	2/24/2015	**33204**
Brittany	Anne	Parlopino	2/24/2015	**33205**
Jordan	Christian	Rio	2/24/2015	**33206**
Saman		Shirazi-Nejad	2/24/2015	**33207**
Robert	Jordan	Adams	2/25/2015	**33208**
Juan	Carlos	Barboza Jr	2/25/2015	**33209**
Scott	Michael	Kirchner	2/25/2015	**33210**
Nicholas	Bruce	OConnor	2/25/2015	**33211**
Jane		Ramboldt	2/25/2015	**33212**
Brad	Mathew	Richardson	2/25/2015	**33213**
Nathan		Varano	2/25/2015	**33214**
Leyla		Jahromi	2/26/2015	**33215**
Baron	Tyler	Sams	2/26/2015	**33216**
Jason	Bradley	Stoddard	2/27/2015	**33217**
Ernest	Randall	Williamson	2/27/2015	**33218**
Ashley	Nichole	Bruley	3/6/2015	**33219**
Hannah	Christine	Pizzo	3/6/2015	**33220**
Toufic	Riad	Saleh	3/6/2015	**33221**
Michael	Munsod	Valones	3/6/2015	**33222**
Melissa	Janet	Aranda	3/11/2015	**33223**
Michelle		Itskovich	3/11/2015	**33224**
Derek	Brian	Kogan	3/11/2015	**33225**
Neera		Patel	3/11/2015	**33226**
Jerry	Clayton	Relth	3/11/2015	**33227**
Michael	Joseph	Duffy	3/17/2015	**33228**
David	Jerome	Rowell	3/17/2015	**33229**
Chelsea	Lee	Sheppard	3/17/2015	**33230**
Renee	Jane	Fine	3/18/2015	**33231**
Keith	Edward	Lewis	3/18/2015	**33232**
Misagh		Zaker	3/18/2015	**33233**
Warren		Zhao	3/18/2015	**33234**

Alexander	Cid	Bello	3/24/2015	**33235**
Ryan	J	Chapman	3/24/2015	**33236**
Daniel	Joseph	McClelland	3/24/2015	**33237**
Christopher	Michael	McHugh	3/24/2015	**33238**
Kimberly	Elizabeth	McHugh	3/24/2015	**33239**
Denise	Lizbeth	Miranda	3/24/2015	**33240**
Nessa	Marie	Parkinen	3/24/2015	**33241**
Saira	Cecilia	Ramirez	3/24/2015	**33242**
Amin		Rokni	3/24/2015	**33243**
Carrie	Joy	Belleson	3/26/2015	**33244**
Elizabeth	Afton	Manley	3/26/2015	**33245**
Pamela	Ann	Mayhew	3/26/2015	**33246**
Augustine	Louis	Nieto	3/26/2015	**33247**
Tracy	Elaine	Ransome	3/26/2015	**33248**
Jeremy	Andrew	Roberts	3/26/2015	**33249**
Gary	Brandon	Severson	3/26/2015	**33250**

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Ratification of Approved Continuing Education Providers

Exhibit 7

STATE OF CALIFORNIA
BOARD OF CHIROPRACTIC EXAMINERS

EDMUND G. BROWN JR., GOVERNOR

MEMORANDUM

Date: April 16, 2015

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 April 16, 2015.

CONTINUING EDUCATION PROVIDERS	DATE APPROVED
1. Doctors of Chiropractic Association	04/16/15
2. Cascadia Continuing Education	04/16/15
3. International Alliance of Healthcare Educators	04/16/15
4. Valerie E. Girard	04/16/15
5. James Ralph Wooley, DC	04/16/15
6. Chiropractic Association of America	04/16/15
7. Michelle McLafferty, DC	04/16/15
8. Weber Healthcare Management Corporation	04/16/15

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

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

Exhibit 8

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS

EDMUND G. BROWN JR., GOVERNOR

MEMORANDUM

Date: April 6, 2015

To: **Board Members**

From:
Robert Puleo
Executive Officer

Subject: **Ratification of Formerly Denied License Applications**

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.

During January 1, 2015 and March 31, 2015, staff reviewed and confirmed that one (1) applicant did not meet statutory and regulatory requirements for licensure. The applicant has appealed the decision and staff is working with the Attorney General's office on their appeal.

At this time, no ratification is necessary.

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

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

BCE Licensing, Continuing Education and Public Relations Committee Meeting Update

Exhibit 9

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF TELECONFERENCE
LICENSING, CONTINUING EDUCATION & PUBLIC RELATIONS COMMITTEE MEETING

February 26, 2015
11:00 a.m.

One or more Committee Members will participate in this meeting at the teleconference sites listed below. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Licensing, Continuing Education and Public Relations Committee at each teleconference location. The public teleconference sites for this meeting are as follows:

Teleconference Meeting Locations:

Corey Lichtman, DC
538 Stevens Ave.
Solana Beach, CA 92075
(858) 481-1889

Heather Dehn, DC
John Roza, Jr., DC
901 P St, #142A
Sacramento, CA 95814
(916) 263-5355

AGENDA

1. **Call to Order**

2. **Approval of Minutes**
   January 22, 2015

3. **Review and Discussion on Possible Revisions to the Continuing Education Regulations for Approving Continuing Education Providers and/or Recognizing Accrediting Agencies.**

4. **Review and Discussion on Strategic Plan Action Items:**

   3.3 - "Evaluate effectiveness of compliance with continuing education regulations to ensure competency"
   3.4 - "Establish and document protocols for ongoing communication with chiropractic oversight organizations to ensure consistent standards"

5. **Review and Discussion Regarding Proposed Outreach Publications**
   - About the Board
   - A Consumer's Guide to Chiropractic

6. **Public Comment**
   Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

7. **Future Agenda Items**

8. **Adjournment**

LICENSING, CONTINUING EDUCATION
& PUBLIC RELATIONS COMMITTEE

Heather Dehn, D.C., Chair
John Roza Jr., D.C.
Corey Lichtman, D.C.

Meetings of the Board of Chiropractic Examiners' Committee 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's 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, 901 P Street, Suite 142A, Sacramento, CA 95814. 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 TELECONFERENCE
LICENSING, CONTINUING EDUCATION & PUBLIC RELATIONS COMMITTEE MEETING

March 19, 2015
1:45 p.m.

One or more Committee Members will participate in this meeting at the teleconference sites listed below. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Licensing, Continuing Education and Public Relations Committee at each teleconference location. The public teleconference sites for this meeting are as follows:

Teleconference Meeting Locations:

Corey Lichtman, DC
538 Stevens Ave.
Solana Beach, CA 92075
(858) 481-1889

Heather Dehn, DC
John Roza, Jr., DC
901 P St, #142A
Sacramento, CA 95814
(916) 263-5355

AGENDA

1. **Call to Order**

2. **Approval of Minutes**
   February 26, 2015

3. **Review and Discussion on Possible Revisions to the Continuing Education Regulations for Approving Continuing Education Providers and/or Recognizing Accrediting Agencies.**

4. **Review and Discussion Regarding the Possibility of Requiring Licensees to Complete a Mandatory Continuing Education Course in Cardio Pulmonary Resuscitation (CPR) as Part of their License Renewal Requirements.**

5. **Review and Discussion Regarding Proposed Outreach Publications**
   - About the Board
   - A Consumer's Guide to Chiropractic

6. **Public Comment**
   Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

7. **Future Agenda Items**

8. **Adjournment**

LICENSING, CONTINUING EDUCATION
& PUBLIC RELATIONS COMMITTEE

Heather Dehn, D.C., Chair
John Roza Jr., D.C.
Corey Lichtman, D.C.

Meetings of the Board of Chiropractic Examiners' Committee 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's 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, 901 P Street, Suite 142A, Sacramento, CA 95814. 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

BCE Government Affairs Committee Meeting Update

Exhibit 10 (SB 277, AB 611, AB 41, AB 1060, AB 750)

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF PUBLIC MEETING

TELECONFERENCE - GOVERNMENT AFFAIRS & STRATEGIC PLANNING COMMITTEE

March 26, 2015, 10:00 a.m.

One or more Committee Members will participate in this meeting at the teleconference sites listed below. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Government Affairs and Strategic Planning Committee at each teleconference location. The public teleconference sites for this meeting are as follows:

Teleconference Meeting Locations:

Julie Elginer, Dr. PH
Board of Chiropractic Examiners
901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

Dionne McClain, D.C.
McClain Sports & Wellness Inc.
6360 Wilshire Blvd. #410
Los Angeles, CA 90048
(323) 653-1014

Frank Ruffino, Public Member
Department of Veterans Affairs
700 E. Naples Court
Chula Vista, CA 91911
(619) 205-1415

AGENDA

1. **CALL TO ORDER**

2. **Approval of Minutes**
   January 23, 2015

3. **Update on BCE Communications Assessment**

4. **Legislative Update**

   - SB 277 – Pan (Public Health: vaccinations)
   - AB 611 – Dahle (Controlled Substances: prescriptions: reporting)
   - AB 41 – Chau (Health Care Coverage: discrimination)
   - AB 1060 – Bonilla (Professions and vocations: licensure)
   - AB 750 – Low (Business and Professions: licenses)

5. **Review and Discussion of BCE Strategic Plan Goals Assigned to the Government Affairs & Strategic Plan Committee**

   - Goal 4 – Organizational Effectiveness

- Goal 7 - Government Affairs

6. **Scheduling Future Government Affairs Committee Meetings for 2015**

7. **PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA**
   Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

8. **FUTURE AGENDA ITEMS**

9. **ADJOURNMENT**

GOVERNMENT AFFAIRS COMMITTEE
Julie Elginer, Dr. PH, Chair
Dionne McClain, D.C.
Frank Ruffino, Public Member

The Board of Chiropractic Examiners' paramount responsibility is to protect the health, welfare, and safety of the public through licensure, education, and enforcement in chiropractic care.

Committee 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 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@dca.ca.gov or send a written request to the Board of Chiropractic Examiners, 901 P Street, Ste. 142A Sacramento, CA 95814. 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
Bill Analysis

Bill Number: SB 277
Author: Senator Richard Pan
Bill Version: Introduced February 19, 2015
Subject: Public Health: vaccinations
Sponsor: Vaccinate California

STATUS OF BILL: 03/05/15 Referred to the Health, Education and Judiciary Committees. Hearing set for April 8, 2015.

SUMMARY:

This bill would remove a personal belief exemption from school immunization law and require school district boards to notify parents of school immunization rates.

EXISTING LAW:

- Provides exemption from school immunizations for medical reasons or personal beliefs.
- Requires parents or guardians opting to exempt their child from school immunizations to provide a letter or affidavit that documents immunizations that have been given and those that have not been given on the basis that they are contrary to their beliefs. The following documents must accompany this letter or affidavit:
    - A signed attestation from the health care practitioner which indicates the parent or guardian of the student was given information by the health care practitioner on the benefits and risks of the immunization and health risks of communicable diseases.
    - A written statement by the parent or guardian of the student indicating that they received the information provided by the health care practitioner.

THIS BILL WOULD:

- Require school district boards to send a notification to all parents/guardians of students informing them of the vaccination rate of their children's school.
- Remove a pupil's exemption from immunization based upon personal beliefs.
- Provide schools or institutions with authority to temporarily exclude students who have not been vaccinated due to medical reasons and who are believed to have been exposed to a communicable disease, from the school or institution until the risk of infection has passed.

BACKGROUND:

According to the author, the number of families requesting a Personal Belief Exemption from vaccinations required for school entry have increased by 337% since the year

2000. In that same year, the United States declared that measles was eliminated from this country; however, the number of cases reported in other countries to which Americans travel have increased. In January of 2015, there were more cases of measles diagnosed in the U.S. than in any one month in the past 20 years.

High vaccine coverage at the community level is extremely important for people who cannot be vaccinated, including people who experience contraindications to vaccinations or are too young to be vaccinated. Protecting people from contracting vaccine-preventable diseases is a core function of public health. As such, this bill seeks to eliminate the personal belief exemption from school immunization law.

FISCAL IMPACT:

This bill would not impose a fiscal impact upon the Board. This bill does have any impact on the Board's licensing, enforcement or regulatory functions of the chiropractic profession.

SUPPORT & OPPOSITION:

Support:

- Vaccinate California (sponsor)
- American Academy of Pediatrics
- American Lung Association
- Biocom
- CA Assoc. of Nurse Practitioners
- CA Chapter of the American College of Emergency Physicians
- CA Children's Hospital Association
- CA Coverage and Health Initiatives
- CA Medical Association
- CA Optometric Association
- CA School Nurses Organization
- CA State Parent-Teacher Association
- Children Now
- Children's Defense Fund CA
- County of Los Angeles
- County of Santa Cruz
- Health Officers Assoc. of CA
- Insurance Commissioner Dave Jones
- Kaiser Permanente
- March of Dimes CA Chapter
- Providence Health & Services Southern CA
- San Francisco Unified School District
- Secular Coalition of CA
- Silicon Valley Leadership Group
- Solano Beach School District
- The Children's Partnership
- Hundreds of Individuals

Opposition:

ACLU
Assoc. of American Physicians and Surgeons
CCA
CA Naturopathic Doctors Assoc. (unless amended)
CA Nurses for Ethical Standards
CA ProLife Council
CA Right to Life Committee, Inc.
Canary Party
Capitol Resource Institute
Educate. Advocate.
Families for Early Autism Treatment
Homeschool Assoc. of CA
National Vaccine Information Center
Pacific Justice Institute Center for Public Policy
ParentalRights.org
SafeMinds
Hundreds of Individuals

ARGUMENTS:

Pro:

- According to the author's office, this bill would reduce the risk of spreading infectious diseases for which vaccinations exist by requiring students to be immunized unless exempted by a medical condition.
- This bill would require notification of immunization rates to parents of students, thereby enabling parents to make an informed decision regarding the health risks of their child's educational environment.
- The Health Officers Association asserts that public health departments have seen a rise in vaccine preventable diseases such as pertussis and measles largely because many residents are choosing to selectively immunize or opt out of vaccinating their children. These decisions risk the health of the community and can be detrimental, even fatal, to newborns, infants, toddlers, and those living with immunocompromising health conditions.
- The Marin County Board of Supervisors asserts that in order to address concerns of parents who home school their children in their own home, they request that this bill be amended to clarify that it does not apply in a home school setting.

Con:

- The California Chiropractic Association (CCA) has publicly stated the following concerns:
    1. Chiropractors themselves choose to become chiropractors because they like to live a more natural lifestyle, free of drugs and surgery when possible. The idea of forced medical procedures goes against a lot of chiropractors' own personal values.
    2. Chiropractors like to pass their values on to their patients.

3. The CCA's opposition is not meant to be construed as anti-vaccination, but rather they want to emphasize informed consent and freedom of choice.

- The ACLU of California argues that there has not been a sufficient showing of need at present to warrant conditioning access to education on mandatory vaccination for each of the diseases covered by this bill. Public education is a fundamental right under the California Constitution, and equal access to education must therefore not be limited or denied unless the State demonstrates that its actions are "necessary" to achieve a compelling state interest. The ACLU further argues that the bill should be amended to explain specifically what the State interest is, where it exists, and under what conditions and circumstances it arises.
- The Association of American Physicians and Surgeons, Inc. states that informed consent is a firmly established principal of medical ethics and human rights and the state has no right to force medical interventions on people without their consent.
- The California Naturopathic Doctors Association opposes this bill unless amended because they are primary doctors who can diagnose medical conditions such as anaphylaxis and immunodeficiency, listed in the CDC's list of contraindications to common pediatric vaccinations, and should be given authority to sign medical waivers for vaccination when such medical condition exists.
- It could also be argued that this bill interferes with the rights of families utilizing complementary and alternative medicine, and promotes more vaccine use and profit from the pharmaceutical industry.

STAFF RECOMMENDED POSITION:

NEUTRAL – This bill would not have a fiscal or programmatic impact upon the BCE.

SENATE BILL No. 277

Introduced by Senators Pan and Allen
(Principal coauthor: Assembly Member Gonzalez)
(Coauthors: Senators Beall, Block, De León, Hall, Hertzberg, Hill, Jackson, Leno, McGuire, Mitchell, Stone, Wieckowski, and Wolk)
(Coauthors: Assembly Members Baker, Chiu, Cooper, Low, McCarty, Nazarian, Rendon, Mark Stone, and Wood)

February 19, 2015

An act to add Section 48980.5 to the Education Code, and to amend Section 120325 of, and to repeal and add Section 120365 of, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 277, as introduced, Pan. Public health: vaccinations.

(1) Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any public or private elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her admission to that institution he or she has been fully immunized against various diseases, including measles, mumps, and pertussis, subject to any specific age criteria. Existing law authorizes an exemption from those provisions for medical reasons or because of personal beliefs, if specified forms are submitted to the governing authority.

This bill would eliminate the exemption from immunization based upon personal beliefs. The bill would make conforming changes to related provisions.

(2) Existing law requires the governing board of a school district, at the beginning of the first semester or quarter of the regular school term, to make certain notifications to parents or guardians of minor pupils

including, among others, specified rights and responsibilities of a parent or guardian and specified school district policies and procedures.

This bill would require the governing board of a school district to also include in the notifications provided to parents or guardians of minor pupils at the beginning of the regular school term the immunization rates for the school in which a pupil is enrolled for each required immunization. By requiring school districts to notify parents or guardians of school immunization rates, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 48980.5 is added to the Education Code,
2 to read:
3 48980.5. The notification required pursuant to Section 48980
4 shall also include the immunization rates for the school in which
5 a pupil is enrolled for each of the immunizations required pursuant
6 to Section 120335 of the Health and Safety Code.
7 SEC. 2. Section 120325 of the Health and Safety Code is
8 amended to read:
9 120325. In enacting this chapter, but excluding Section 120380,
10 and in enacting Sections 120400, 120405, 120410, and 120415, it
11 is the intent of the Legislature to provide:
12 (a) A means for the eventual achievement of total immunization
13 of appropriate age groups against the following childhood diseases:
14 (1) Diphtheria.
15 (2) Hepatitis B.
16 (3) Haemophilus influenzae type b.
17 (4) Measles.
18 (5) Mumps.
19 (6) Pertussis (whooping cough).

(7) Poliomyelitis.
(8) Rubella.
(9) Tetanus.
(10) Varicella (chickenpox).
(11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the department and that a record of the immunization is made in accordance with the regulations.

(c) Exemptions from immunization for medical reasons ~~or because of personal beliefs~~.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.

SEC. 3. Section 120365 of the Health and Safety Code is repealed.

~~120365. (a) Immunization of a person shall not be required for admission to a school or other institution listed in Section 120335 if the parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of a minor, or the person seeking admission if an emancipated minor, files with the governing authority a letter or affidavit that documents which immunizations required by Section 120355 have been given and which immunizations have not been given on the basis that they are contrary to his or her beliefs.~~

~~(b) On and after January 1, 2014, a form prescribed by the State Department of Public Health shall accompany the letter or affidavit~~

~~filed pursuant to subdivision (a). The form shall include both of the following:~~

~~(1) A signed attestation from the health care practitioner that indicates that the health care practitioner provided the parent or guardian of the person who is subject to the immunization requirements of this chapter, the adult who has assumed responsibility for the care and custody of the person, or the person if an emancipated minor, with information regarding the benefits and risks of the immunization and the health risks of the communicable diseases listed in Section 120335 to the person and to the community. This attestation shall be signed not more than six months before the date when the person first becomes subject to the immunization requirement for which exemption is being sought.~~

~~(2) A written statement signed by the parent or guardian of the person who is subject to the immunization requirements of this chapter, the adult who has assumed responsibility for the care and custody of the person, or the person if an emancipated minor, that indicates that the signer has received the information provided by the health care practitioner pursuant to paragraph (1). This statement shall be signed not more than six months before the date when the person first becomes subject to the immunization requirements as a condition of admittance to a school or institution pursuant to Section 120335.~~

~~(c) The following shall be accepted in lieu of the original form:~~

~~(1) A photocopy of the signed form.~~

~~(2) A letter signed by a health care practitioner that includes all information and attestations included on the form.~~

~~(d) Issuance and revision of the form shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).~~

~~(e) When there is good cause to believe that the person has been exposed to one of the communicable diseases listed in subdivision (a) of Section 120325, that person may be temporarily excluded from the school or institution until the local health officer is satisfied that the person is no longer at risk of developing the disease.~~

~~(f) For purposes of this section, "health care practitioner" means any of the following:~~

~~(1) A physician and surgeon, licensed pursuant to Section 2050 of the Business and Professions Code.~~

~~(2) A nurse practitioner who is authorized to furnish drugs pursuant to Section 2836.1 of the Business and Professions Code.~~

~~(3) A physician assistant who is authorized to administer or provide medication pursuant to Section 3502.1 of the Business and Professions Code.~~

~~(4) An osteopathic physician and surgeon, as defined in the Osteopathic Initiative Act.~~

~~(5) A naturopathic doctor who is authorized to furnish or order drugs under a physician and surgeon's supervision pursuant to Section 3640.5 of the Business and Professions Code.~~

~~(6) A credentialed school nurse, as described in Section 49426 of the Education Code.~~

SEC. 4. Section 120365 is added to the Health and Safety Code, to read:

120365. (a) Immunization of a person shall not be required for admission to a school or other institution listed in Section 120335 if the parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of a minor, or the person seeking admission if an emancipated minor, files with the governing authority a letter or affidavit that documents which immunizations required by Section 120355 have been given and which immunizations have not been given pursuant to an exemption from immunization for medical reasons.

(b) When there is good cause to believe that the person has been exposed to one of the communicable diseases listed in subdivision (a) of Section 120325, that person may be temporarily excluded from the school or institution until the local health officer is satisfied that the person is no longer at risk of developing the disease.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

1
2 CORRECTIONS:
3 Heading—Line 4.
4

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Board of Chiropractic Examiners
Bill Analysis

Bill Number: AB 611
Author: Assemblyman Brian Dahle
Bill Version: Amended March 24, 2015
Subject: Controlled Substances: prescriptions: reporting
Sponsor: California Statewide Law Enforcement Association

STATUS OF BILL: 03/24/15 Amended by author and re-referred to the Business and Professions Committee.

SUMMARY:

This bill would authorize an individual designated by a board, bureau or program within DCA to request access to the CURES database when probable cause exists for investigating licensees for substance abuse.

EXISTING LAW:

- The Department of Justice maintains the "Controlled Substance Utilization and Evaluation System" (CURES) database to track prescriptions for controlled substances.
- Peace Officers are authorized to seek permission to access the database for investigative purposes.
- The Department of Justice (DOJ) is authorized to deny an application or suspend a subscriber for specified reasons, including accessing information for any reason other than caring for his or her patients.
- The Chiropractic Initiative Act provides the Board with the authority to refuse to grant, or suspend or revoke, a license to practice chiropractic in this state, or place the licensee upon probation or issue a reprimand to him, for violation of the rules and regulations adopted by the board in accordance with this act.
- Business and Professions Code (BPC) section 490 allows a board to suspend or revoke a license on the grounds that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

THIS BILL WOULD:

- Authorize an individual designated to investigate the controlled substance history of a holder of a professional license for whom probable cause of substance abuse exists, to apply to DOJ for access to the CURES database.

BACKGROUND:

The CURES database was created in order to reduce the abuse of controlled

substances by allowing health care practitioners and pharmacists to access the controlled substance prescription history of patients under their care. Peace officers are authorized to seek DOJ's permission to access the database for investigative purposes. Currently, DCA investigators and enforcement staff, who are not sworn peace officers, may not access the CURES database when investigating licensees who are believed to have a substance abuse problem. According to the author, providing access to CURES for DCA's non-sworn investigative and enforcement staff would allow them to perform their job more efficiently.

FISCAL IMPACT:

The author believes that this bill may result in minor savings to DCA. However, the BCE believes there is not enough information provided to determine a fiscal impact at this time. It is unknown whether there are costs associated with access or if there are special requirements regarding access to the database, such as a secure computer in a locked room with restricted access, staff training, etc. If such restrictions are imposed for access and the Board chose to utilize the CURES database, expenses would be incurred to comply with the special accommodations necessary to provide access to the database. It is also unknown whether there would be alternatives for small boards to utilize another entity within DCA to obtain information from the database (i.e. Division of Investigation) in order to avoid potential costs associated with restricted access to the database. This bill is permissive; therefore, there would be no fiscal impact to the Board if the Board does not choose to access the CURES database.

SUPPORT & OPPOSITION:

Support: California Statewide Law Enforcement Association

Opposition: None on record

ARGUMENTS:

Pro:

- This bill may expedite investigations of licensees involving misconduct resulting from substance abuse by providing non-sworn staff another tool to utilize in their investigation.
- This bill is permissive thereby providing DCA Boards, Bureaus and Programs with the option of utilizing the CURES database, if they deem it beneficial.

Con:

- This bill does not provide adequate information regarding access to the CURES database to determine the programmatic or fiscal impact to the Board.
- This bill raises potential privacy issues. It is unknown what safeguards would be in place to ensure that access is only allowed for bonafide investigative purposes.

- It may be more efficient to allow Division of Investigation to obtain this information for individual boards on an as-needed basis.
- Misuse of this information or unauthorized access creates a potential liability for boards.

STAFF RECOMMENDED POSITION:

NO POSITION AT THIS TIME – The BCE supports the intent of this bill and the benefit it may provide to enforcement; however there is not enough information to determine a fiscal impact, if any.

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 611

Introduced by Assembly Member Dahle

February 24, 2015

An act to amend Section 11165.1 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 611, as amended, Dahle. Controlled substances: prescriptions: reporting.

Existing law requires certain health care practitioners and pharmacists to apply to the Department of Justice to obtain approval to access information contained in the Controlled Substance Utilization Review and Evaluation System (CURES) Prescription Drug Monitoring Program (PDMP) regarding the controlled substance history of a patient under his or her care. Existing law requires the Department of Justice, upon approval of an application, to provide the approved health care practitioner or pharmacist the history of controlled substances dispensed to an individual under his or her care. *Existing law authorizes an application to be denied, or a subscriber to be suspended, for specified reasons, including, among others, a subscriber accessing information for any reason other than caring for his or her patients.*

This bill would also authorize an individual designated to investigate a holder of a professional license to apply to the Department of Justice to obtain approval to access information contained in the CURES PDMP regarding the controlled substance history of an applicant or a licensee for the purpose of investigating the alleged substance abuse of a licensee. The bill would, upon approval of an application, require the department

to provide to the approved individual the history of controlled substances dispensed to the licensee. *The bill would clarify that only a subscriber who is a health care practitioner or a pharmacist may have an application denied or be suspended for accessing subscriber information for any reason other than caring for his or her patients. The bill would also specify that an application may be denied, or a subscriber may be suspended, if a subscriber who has been designated to investigate the holder of a professional license accesses information for any reason other than investigating the holder of a professional license.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 11165.1 of the Health and Safety Code
2 is amended to read:
3 11165.1. (a) (1) (A) (i) A health care practitioner authorized
4 to prescribe, order, administer, furnish, or dispense Schedule II,
5 Schedule III, or Schedule IV controlled substances pursuant to
6 Section 11150 shall, before January 1, 2016, or upon receipt of a
7 federal Drug Enforcement Administration (DEA) registration,
8 whichever occurs later, submit an application developed by the
9 Department of Justice to obtain approval to access information
10 online regarding the controlled substance history of a patient that
11 is stored on the Internet and maintained within the Department of
12 Justice, and, upon approval, the department shall release to that
13 practitioner the electronic history of controlled substances
14 dispensed to an individual under his or her care based on data
15 contained in the CURES Prescription Drug Monitoring Program
16 (PDMP).
17 (ii) A pharmacist shall, before January 1, 2016, or upon
18 licensure, whichever occurs later, submit an application developed
19 by the Department of Justice to obtain approval to access
20 information online regarding the controlled substance history of
21 a patient that is stored on the Internet and maintained within the
22 Department of Justice, and, upon approval, the department shall
23 release to that pharmacist the electronic history of controlled
24 substances dispensed to an individual under his or her care based
25 on data contained in the CURES PDMP.

(iii) An individual designated by a board, bureau, or program within the Department of Consumer Affairs to investigate a holder of a professional license may, for the purpose of investigating the alleged substance abuse of a licensee, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a licensee that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that individual the electronic history of controlled substances dispensed to the licensee based on data contained in the CURES PDMP. The application shall contain facts demonstrating the probable cause to believe the licensee has violated a law governing controlled substances.

(B) An application may be denied, or a subscriber may be suspended, for reasons which include, but are not limited to, the following:

(i) Materially falsifying an application for a subscriber.

(ii) Failure to maintain effective controls for access to the patient activity report.

(iii) Suspended or revoked federal DEA registration.

(iv) Any subscriber who is arrested for a violation of law governing controlled substances or any other law for which the possession or use of a controlled substance is an element of the crime.

(v) Any subscriber *described in clause (i) or (ii) of subparagraph (A)* accessing information for any other reason than caring for his or her patients.

(vi) Any subscriber described in clause (iii) of subparagraph (A) accessing information for any other reason than investigating the holder of a professional license.

(C) Any authorized subscriber shall notify the Department of Justice within 30 days of any changes to the subscriber account.

(2) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150 or a pharmacist shall be deemed to have complied with paragraph (1) if the licensed health care practitioner or pharmacist has been approved to access the CURES database through the process developed pursuant to subdivision (a) of Section 209 of the Business and Professions Code.

(b) Any request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the Department of Justice.

(c) In order to prevent the inappropriate, improper, or illegal use of Schedule II, Schedule III, or Schedule IV controlled substances, the Department of Justice may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

(d) The history of controlled substances dispensed to an individual based on data contained in CURES that is received by an authorized subscriber from the Department of Justice pursuant to this section shall be considered medical information subject to the provisions of the Confidentiality of Medical Information Act contained in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(e) Information concerning a patient's controlled substance history provided to an authorized subscriber pursuant to this section shall include prescriptions for controlled substances listed in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code of Federal Regulations.

O

Board of Chiropractic Examiners
Bill Analysis

Bill Number: AB 41
Author: Senator Ed Chau
Bill Version: Introduced December 1, 2014
Subject: Health Care Coverage: discrimination
Sponsor: California Chiropractic Association

STATUS OF BILL: 01/22/15 Referred to the Committee on Health. Hearing scheduled for April 28, 2015.

SUMMARY:

This bill would codify federal law protections that prohibit health plans from discriminating against any professional category of healthcare provider when making decisions about what type of providers to include in networks or which services to cover.

EXISTING LAW:

- Section 7206 of the Affordable Care Act bans discrimination against whole classes of healthcare providers who are acting within the scope of their license or certification.
- State law provides for the regulation of healthcare service plans and health insurers by the Dept. of Managed Health Care and the Department of Insurance.

THIS BILL WOULD:

- Effective January 1, 2016, prevent a health care service plan from discriminating against provider participation or coverage for any health care provider who is acting within the scope of the provider's license or certification.
- Clarify that health care plans are not required to contract with any health care provider who is willing to abide by the terms and conditions for participation.
- Clarify that service plans may establish varying reimbursement rates based on quality or performance measures.
- Clarify that implementation shall be consistent with the requirements of non-discrimination provisions established in Federal law.

BACKGROUND:

The Affordable Care Act bans discrimination against whole classes of healthcare providers from participation in health care plans or individual health insurance coverage. This bill clarifies the Department of Managed Health Care and Department of Insurance authority to enforce the ban on provider discrimination.

According to the author, health plans and insurance carriers commonly limit types of health care providers allowed to provide services. In some cases, providers have

excluded allied health practitioners altogether from the networks and have refused to allow them to perform services covered under the plan even though those services are equally within their scope of practice just as much as the other providers who were included in the network. In other cases, insurers have imposed limitations or conditions upon payment to, or upon services, diagnosis, or treatment by allied health practitioners, which are not applied to other providers. This practice limits, and in some cases, denies patient choice and access to a range of beneficial providers and results in a less than ideal and optimal health care delivery system.

FISCAL IMPACT:

This bill would not impose a fiscal or programmatic impact upon the Board as this bill does not contain provisions which impose requirements upon the BCE.

SUPPORT & OPPOSITION:

Support: California Chiropractic Association
California Association of Nurse Anesthetists
California Naturopathic Doctors Association

Opposition: None on record

ARGUMENTS:

Pro:

- This bill would provide the Dept. of Managed Health Care and the Department of Insurance authority to enforce the ban on provider discrimination by group health plans and health insurance issuers.
- Patients may have greater access to treatment by allied health practitioners through their health plans.
- Utilization of allied health care practitioners, in addition to traditional physicians, may reduce healthcare costs and improve the quality of services provided by a health plan or health insurance issuer.

Con:

- One may argue that this bill is unnecessary because it is duplicative of federal law.
- This bill will not require insurance companies and health care plans to contract with allied health care providers; therefore, consumers may have to pay cash for allied healthcare services.

STAFF RECOMMENDED POSITION:

NO POSITION AT THIS TIME – This bill does not impose any fiscal or workload mandates which directly impact the Board's licensing, enforcement or regulatory functions.

ASSEMBLY BILL No. 41

Introduced by Assembly Member Chau

December 1, 2014

An act to add Section 1373.15 to the Health and Safety Code, and to add Section 10177.15 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 41, as introduced, Chau. Health care coverage: discrimination.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits certain discriminatory acts by health care service plans and health insurers. Existing federal law, beginning January 1, 2014, prohibits a group health plan and a health insurance issuer offering group or individual health insurance coverage from discriminating with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable state law.

Beginning January 1, 2016, this bill would prohibit a health care service plan or health insurer from discriminating against any health care provider who is acting within the scope of that provider's license or certification, as specified.

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 1373.15 is added to the Health and Safety
2 Code, to read:
3 1373.15. (a) Beginning January 1, 2016, no health care service
4 plan shall discriminate with respect to provider participation or
5 coverage under the plan against any health care provider who is
6 acting within the scope of that provider's license or certification
7 under applicable state law, including an initiative act.
8 (b) Notwithstanding subdivision (a), this section shall not be
9 construed to require that a health care service plan contract with
10 any health care provider willing to abide by the terms and
11 conditions for participation established by the plan or issuer.
12 (c) Nothing in this section shall be construed as preventing a
13 health care service plan from establishing varying reimbursement
14 rates based on quality or performance measures.
15 (d) This section shall be implemented only to the extent required
16 by the provider nondiscrimination provisions established in Section
17 2706 of the federal Public Health Service Act (42 U.S.C. Sec.
18 300gg-5), and any federal rules or regulations issued under that
19 section.
20 SEC. 2. Section 10177.15 is added to the Insurance Code, to
21 read:
22 10177.15. (a) Beginning January 1, 2016, no health insurer
23 shall discriminate with respect to provider participation or coverage
24 under the policy against any health care provider who is acting
25 within the scope of that provider's license or certification under
26 applicable state law, including an initiative act.
27 (b) Notwithstanding subdivision (a), this section shall not be
28 construed to require that a health insurer contract with any health
29 care provider willing to abide by the terms and conditions for
30 participation established by the insurer or issuer.

1 (c) Nothing in this section shall be construed as preventing a
2 health insurer from establishing varying reimbursement rates based
3 on quality or performance measures.
4 (d) This section shall be implemented only to the extent required
5 by the provider nondiscrimination provisions established in Section
6 2706 of the federal Public Health Service Act (42 U.S.C. Sec.
7 300gg-5), and any federal rules or regulations issued under that
8 section.
9 SEC. 3. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.

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Board of Chiropractic Examiners
Bill Analysis

Bill Number: AB 1060
Author: Assembly Member Susan Bonilla
Bill Version: Amended March 26, 2015
Subject: Professions and vocations: licensure
Sponsor: Author

STATUS OF BILL: 4/6/15 re-referred to Business and Professions Committee; Hearing set for 4/14/15.

SUMMARY:

This bill would require professional licensing boards under DCA to notify a licensee whose license has been suspended or revoked about the rehabilitation, reinstatement or penalty reduction of a suspended or revoked license using both first-class mail and email, if the board has an email address on file.

EXISTING LAW:

- The Chiropractic Initiative Act provides the Board with the authority to license and regulate the practice of chiropractic in this state,
- The Chiropractic Initiative Act authorizes the Board to place a licensee on probation or issue a reprimand, for violation of the rules and regulations adopted by the board in accordance with this act.
- Business and Professions Code (BPC) section 490 allows a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- BPC section 491 requires a board to provide the ex-licensee with information regarding rehabilitation, reinstatement or reduction of penalty.

THIS BILL WOULD:

- Clarify the means by which a board must provide an ex-licensee with information regarding rehabilitation, reinstatement or reduction of penalty by authorizing the information to be sent via first-class mail and email, if an email address is on file with the board.

BACKGROUND:

BPC section 491 requires boards to send a copy of the provisions regarding reinstatement or reduction of penalty and criteria for rehabilitation to the ex-licensee but does not specify the means by which this notification must be made. This bill clarifies that a board must satisfy this requirement through first-class mail and email, if an email address for the ex-licensee is on file with the board.

FISCAL IMPACT:
This bill will have no fiscal impact upon the Board. This bill specifies the means by which the notification of discipline or rehabilitation must be sent and does not provide the regulatory agency with the option of choosing one method of notification over the other, unless an email address is not on file with the Board. The Board does not have authority to require licensees to provide and maintain a current e-mail address with the Board; therefore, there would be no change to the current process of notification. The Board's licensing database (CAS), does not have a field to store email addresses and changes to CAS are currently prohibited due to the implementation of BreEZe.

SUPPORT & OPPOSITION:

Support: None on record

Opposition: None on record

ARGUMENTS:

Pro:

- This bill provides clarification on modes to provide notification to a person who has had disciplinary action against their license regarding rehabilitation, reinstatement or reduction of penalty.
- The bill was amended to reflect that electronic notification is required only if an email address is on file with the Board; thereby exempting the BCE from this requirement, as the Board is unable to require or maintain email addresses from licensees.

Con:

- The Board does not have authority to require licensees to provide and maintain a current email address with the Board.
- CAS does not have a field to store email addresses and changes to CAS are currently prohibited due to the implementation of BreEZe, even though the BCE is not currently on BreEZe.
- This proposal does not reduce the fiscal impact to boards because it prescribes an additional mode to send notification to licensees, rather than provide an alternative mode of notification.
- This bill would potentially increase workload by requiring Boards who collect email addresses to add an additional step to the notification process.

STAFF RECOMMENDED POSITION:
WATCH – The Assembly B&P Office indicated that this is a spot bill and will likely address another issue entirely.

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 1060

Introduced by Assembly Member Bonilla

February 26, 2015

An act to amend Section 491 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1060, as amended, Bonilla. Professions and vocations: licensure.

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 board to suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law requires the board, upon suspension or revocation of a license, to provide the ex-licensee with certain information pertaining to rehabilitation, reinstatement, or reduction of penalty, as specified.

This bill would ~~authorize~~ *require* the board to provide that information through first-class mail and by ~~electronic means.~~ *email if the board has an email address on file for the ex-licensee.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 491 of the Business and Professions Code
2 is amended to read:

491. (a) Upon suspension or revocation of a license by a board on one or more of the grounds specified in Section 490, the board shall:

(1) Send a copy of the provisions of Section 11522 of the Government Code to the ex-licensee.

(2) Send a copy of the criteria relating to rehabilitation formulated under Section 482 to the ex-licensee.

(b) Subdivision (a) ~~may~~ *shall* be satisfied through first-class mail and by ~~electronic means.~~ *email if the board has an email address on file for the ex-licensee.*

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Board of Chiropractic Examiners
Bill Analysis

Bill Number: AB 750
Author: Senator Evan Low
Bill Version: Amended April 6, 2015
Subject: Business and Professions: licenses
Sponsor:

STATUS OF BILL: 04/07/15 re-referred to the Business and Professions Committee; hearing set for 04/14/15.

SUMMARY:

This bill would authorize programs under the Department of Consumer Affairs (DCA) to establish by regulation a license category for retired licensees who are not actively engaged in the practice of their profession, unless regulation specifies the criteria for a retired licensee to practice his or her profession.

EXISTING LAW:

- The Chiropractic Initiative Act provides the Board with the authority to license and regulate the practice of chiropractic in this state.
- Authorizes entities under the DCA to establish by regulation a system for an inactive category of license for persons who are not actively engaged in the practice of their profession.
- Prohibits inactive licensees from engaging in any activity for which a license is required.

THIS BILL WOULD:

- Provide entities under DCA permissive authority to establish by regulation a license category for retired licensees who are not actively engaged in the practice of their profession.
- Prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria by which a retired licensee may practice his or her profession.
- Authorize and require a regulatory entity under DCA to investigate complaints alleging actions of a licensee whose license is in a retired or inactive status.

BACKGROUND:

FISCAL IMPACT:

This bill would impose a fiscal impact upon the Board if the Board chooses to implement a retired license category. A rulemaking package would need to be promulgated, which

would significantly impact the workload of the BCE's limited staff. The cumulative effect of recent legislation dealing with SSN/ITIN, military personnel and their spouses, sponsored free health care events, etc., has had a significant workload impact on the Board. It is highly unlikely that we will be able to absorb any additional legislative mandates (no matter how insignificant they may seem) without augmenting staff. Implementing these varied and sometimes conflicting pieces of legislation has taken staff's time away from their primary duties and has hampered the Board's ability to achieve goals that are a priority for our Board. Additionally, the Board may be unable to implement another licensing category due to implementation of BreEZe and the current freeze on changes to CAS. Finally, there may be a loss of licensing revenue if there are no fees associated with holding a license in this status.

SUPPORT & OPPOSITION:

Support: None on record

Opposition: None on record

ARGUMENTS:

Pro:

- This bill is permissive; therefore, the Board can choose whether they want to establish a license category for retired licensees.
- A retired status would provide the licensee relief from fees associated with renewal of the license, while reducing the negative public perception associated with a delinquent license status.
- This bill provides the board with authority to establish whether to reinstate a retired status license to active status and set criteria for reinstating the license.

Con:

- If the Board chooses to offer a retired license status and if the Board were to allow reinstatement of a retired status license, the Board will see a decrease in revenue because licensees will likely choose this status over an inactive status to save money on renewal fees and continuing education.
- Changes to CAS are currently prohibited due to the implementation of BreEZe.

STAFF RECOMMENDED POSITION:

WATCH – The Board supports the intent of this bill; however, there may be possible barriers in implementing a new license status due to implementation and current complications with BreEZe and DCA's current freeze on changes to CAS. Additionally, if the Board chooses to implement a retired license status, this would create a significant workload and fiscal impact upon the BCE.

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 750

Introduced by Assembly Member Low

February 25, 2015

An act to ~~amend~~ *add* Section ~~462 of~~ *463 to* the Business and Professions Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

AB 750, as amended, Low. Business and professions: *retired category:* licenses.

Existing law provides for numerous boards, bureaus, commissions, or programs within the Department of Consumer ~~Affairs,~~ *Affairs* that administer the licensing and regulation of various businesses and professions. Existing law authorizes any of the boards, bureaus, commissions, or programs within the department, except as specified, to establish by regulation a system for an inactive category of license for persons who are not actively engaged in the practice of their profession or vocation. Under existing law, the holder of an inactive license is prohibited from engaging in any activity for which a license is required. *Existing law defines "board" for these purposes to include, unless expressly provided otherwise, a bureau, commission, committee, department, division, examining committee, program, and agency.*

This bill would additionally authorize any of the boards, bureaus, commissions, or programs within the ~~department, except as specified,~~ *department* to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation, and would prohibit the holder of a retired license from engaging in any activity for which a license is ~~required.~~ *required,*

unless regulation specifies the criteria for a retired licensee to practice his or her profession. The bill would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 *SECTION 1. Section 463 is added to the Business and*
2 *Professions Code, to read:*
3 *463. (a) Any of the boards, bureaus, commissions, or programs*
4 *within the department may establish, by regulation, a system for*
5 *a retired category of licensure for persons who are not actively*
6 *engaged in the practice of their profession or vocation.*
7 *(b) The regulation shall contain the following:*
8 *(1) The holder of a retired license issued pursuant to this section*
9 *shall not engage in any activity for which a license is required,*
10 *unless the board, by regulation, specifies the criteria for a retired*
11 *licensee to practice his or her profession or vocation.*
12 *(2) The holder of a retired license shall not be required to renew*
13 *that license.*
14 *(3) In order for the holder of a retired license issued pursuant*
15 *to this section to restore his or her license to an active status, the*
16 *holder of that license shall meet all the following:*
17 *(A) Pay a fee established by regulation.*
18 *(B) Not have committed an act or crime constituting grounds*
19 *for denial of licensure.*
20 *(C) Comply with the fingerprint submission requirements*
21 *established by regulation.*
22 *(D) If the board requires completion of continuing education*
23 *for renewal of an active license, complete continuing education*
24 *equivalent to that required for renewal of an active license, unless*
25 *a different requirement is specified by the board.*
26 *(E) Complete any other requirements as specified by the board*
27 *by regulation.*
28 *(c) A board may upon its own determination, and shall upon*
29 *receipt of a complaint from any person, investigate the actions of*
30 *any licensee, including a person with a license that either restricts*

or prohibits the practice of that person in his or her profession or vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.

~~SECTION 1. Section 462 of the Business and Professions Code is amended to read:~~

~~462. (a) Any of the boards, bureaus, commissions, or programs within the department may establish, by regulation, a system for an inactive and a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.~~

~~(b) The regulation shall contain the following provisions:~~

~~(1) The holder of an inactive or retired license issued pursuant to this section shall not engage in any activity for which a license is required.~~

~~(2) An inactive license issued pursuant to this section shall be renewed during the same time period in which an active license is renewed. The holder of an inactive license need not comply with any continuing education requirement for renewal of an active license.~~

~~(3) The renewal fee for a license in an active status shall apply also for a renewal of a license in an inactive status, unless a lesser renewal fee is specified by the board.~~

~~(4) In order for the holder of an inactive license issued pursuant to this section to restore his or her license to an active status, the holder of an inactive license shall comply with all the following:~~

~~(A) Pay the renewal fee.~~

~~(B) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.~~

~~(c) This section shall not apply to any healing arts board as specified in Section 701.~~

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BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

BCE Enforcement Committee Meeting Update

Exhibit 11

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF TELECONFERENCE
ENFORCEMENT COMMITTEE MEETING
March 13, 2015
12:30 p.m.

One or more Committee Members will participate in this meeting at the teleconference sites listed below. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Enforcement Committee at each teleconference location. The public teleconference sites for this meeting are as follows:

Teleconference Meeting Locations:

Sergio Azzolino, DC 1545 Broadway St., Suite 1a San Francisco, CA 94109 (415) 563-3800	Heather Dehn, D.C. 4616 El Camino Ave., Suite B Sacramento, CA 95821 (916) 488-0202	Frank Ruffino 901 P Street, Suite 142-A Sacramento, CA 95814 (916) 263-5355

AGENDA

1. **Call to Order**

2. **Approval of Minutes**
   January 27, 2015

3. **Discussion and Possible Action on Criteria and Standards for Expert Consultant Selection. [2014-2107 Strategic Plan]**

4. **Discussion and Possible Action on Proposed Language Regarding Maintenance of Patient Records/Amendments to Title 16, California Code of Regulations Sections 312.2 and 318**

5. **Scheduling Future Enforcement Committee Meetings for 2015**

6. **Public Comment**
   Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125 & 11125.7(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

7. **Future Agenda Items**

8. **Adjournment**

ENFORCEMENT COMMITTEE

Sergio Azzolino, D.C., Chair
Heather Dehn, D.C.
Frank Ruffino

Meetings of the Board of Chiropractic Examiners' Committee 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's 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@dca.ca.gov or send a written request to the Board of Chiropractic Examiners, 901 P Street, Suite 142A, Sacramento, CA 95814. 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

NEW NOTICE
2015 EXPERT RECRUITMENT

Dear Licensees:

The Board of Chiropractic Examiners (Board) is accepting Expert applications at this time.

We are seeking qualified chiropractors to review consumer complaints, develop expert opinions, prepare written reports, and testify at administrative hearings. An expert witness is any person possessing technical or professional knowledge from advanced education and extensive work experience enabling the formation of definite opinions in an area of expertise. Please note that only licensees with a current active license in good standing and no prior administrative disciplinary actions or convictions, can be considered.

If you would like to be considered to newly serve or continue as a Board expert, please go to our website to obtain a copy of our current application and submit the completed application with original signature, to the Board's mailing address **no later than May 1, 2015. Applications are not accepted by email**. Following a review of each new and/or renewal Expert application we receive, the Board staff will notify selected licensees from the pool of applicants to attend an upcoming required training session.

If you have any questions about this current Expert recruitment process, please contact Marlene Valencia directly at: marlene.valencia@dca.ca.gov.

Best regards,

Robert Puleo
Executive Officer

3/24/2015

T (916) 263-5355
F (916) 327-0039
TT/TDD (800) 735-2929
Consumer Complaint Hotline
(866) 543-1311

Board of Chiropractic Examiners
901 P Street, Suite 142A
Sacramento, CA 95814
www.chiro.ca.gov

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

APPLICATION FOR EXPERT CONSULTANT

BOARD OF CHIROPRACTIC EXAMINERS
901 P Street, Suite 142A
Sacramento, California 95814
916-263-5355

Complete each section and attach your curriculum vitae/resume. If you need additional space you may attach a separate sheet. **PLEASE TYPE OR PRINT LEGIBLY**

SECTION 1 –APPLICANT INFORMATION

NAME: **(Last, First, Middle)**	**CHIROPRACTIC LICENSE NO.:**
BUSINESS ADDRESS:	
CITY: **STATE:**	**ZIP Code:**
TELEPHONE NUMBERS (include area code) **Office:** **Mobile:** **FAX:**	**EMAIL ADDRESS:** **WEBSITE ADDRESS(ES):**

CURRENT EMPLOYMENT INFORMATION

EMPLOYER:	
ADDRESS:	
CITY **STATE**	**ZIP Code**
TELEPHONE NUMBERS (include area code) **Office:** **FAX:**	**EMAIL ADDRESS:**
POSITION:	**HOW LONG?:**

COLLEGE EDUCATION

COLLEGE/UNIVERSITY:	
CITY **STATE**	**ZIP Code**
DEGREE EARNED:	**YEAR COMPLETED:**

PROFESSIONAL EDUCATION

CHIROPRACTIC COLLEGE:	
CITY **STATE**	**ZIP Code**
DEGREE:	**DATE COMPLETED:**

SECTION 2 –PROFESSIONAL QUALIFICATIONS

Year of Initial Licensure: Current Status of License (i.e., active; inactive):	Are you actively treating patients? YES ☐ NO ☐ What percentage of time, per month?

Have you ever been employed by or provided services to the Board? YES ☐ NO ☐
If so, when and what services did you provide?

Are you board-certified or board-eligible in any of the chiropractic diplomate programs? YES ☐ NO ☐

If yes, attach a copy of each certification or eligibility.

Have you, at any time in the past two years, worked for an insurance carrier, self-insured plan, third party administrator, or chiropractic claims review company? YES ☐ NO ☐

If yes, attach a description of the services you provided and your employment relationship with the above-mentioned entities.

Are you a State of California Qualified Medical Evaluator?
YES ☐ -QME Cert No.: _____ NO ☐
If yes, attach a copy of the certificate.

SECTION 3 –COURT EXPERT WITNESS EXPERIENCE and KNOWLEDGE

Have you testified in court as an Expert witness as a Doctor of Chiropractic?
YES ☐ I have this experience No ☐ I do NOT have this experience

If yes, how many total years have you testified as a Chiropractic Expert witness? _____

Within the last 3 years:
How many times have you testified as a Chiropractic Expert witness? _____
How often? _____

What was the approximate date of your last Chiropractic Expert court testimony: _____

You may describe your court experience on a separate attachment if necessary.

Do you have knowledge and experience with presenting testimony in court or arbitrations as an expert in medical and legal proceedings?

- ☐ I have extensive knowledge and experience *
- ☐ I have some knowledge and experience
- ☐ I have minimal knowledge and experience
- ☐ I have no knowledge and experience

***If you have checked the boxes indicating extensive knowledge and experience, provide explanation on a separate sheet**

Do you have knowledge of and ability to interpret current laws and regulations in Expert testimony?

- ☐ I have extensive knowledge and experience *
- ☐ I have some knowledge and experience
- ☐ I have minimal knowledge and experience
- ☐ I have no knowledge and experience

***If you have checked the boxes indicating extensive knowledge and experience, provide explanation on a separate sheet**

SECTION 4 –KNOWLEDGE AND EXPERIENCE

For each phrase listed below, please mark the statement that most accurately represents the depth of your knowledge and experience in the field of Chiropractic:

A. Knowledge and skill in case review of medical records (including x-rays) for the purpose of medical and legal proceedings.
- ☐ I have extensive knowledge and experience *
- ☐ I have some knowledge and experience
- ☐ I have minimal knowledge and experience
- ☐ I have no knowledge and experience

B. Knowledge of and ability to interpret current chiropractic laws and regulations, including standard of care.
- ☐ I have extensive knowledge and ability *
- ☐ I have some knowledge and ability
- ☐ I have minimal knowledge and ability
- ☐ I have no knowledge and ability

C. Knowledge and experience rendering opinion or summary of findings regarding treatment utilization or questionable billing issues.
- ☐ I have extensive knowledge and experience *
- ☐ I have some knowledge and experience
- ☐ I have minimal knowledge and experience
- ☐ I have no knowledge and experience

D. Knowledge and experience in performing case management / peer review evaluations regarding the professional conduct of licensees as required by chiropractic related law.
- ☐ I have extensive knowledge and experience *
- ☐ I have some knowledge and experience
- ☐ I have minimal knowledge and experience
- ☐ I have no knowledge and experience

E. Knowledge and experience in reviewing chiropractic laws and regulations and rendering written opinions relating to the review of chiropractic related laws and regulations.
- ☐ I have extensive knowledge and experience *
- ☐ I have some knowledge and experience
- ☐ I have minimal knowledge and experience
- ☐ I have no knowledge and experience

***If you have checked the boxes indicating extensive knowledge and experience, provide explanation on a separate sheet.**

SECTION 5 –ACADEMIC APPOINTMENTS

Have you ever held any academic appointments at any college or university? YES ☐ NO ☐

If yes, attach a description of each appointment and your job duties.

SECTION 6 –PUBLICATIONS

Please list all published articles and texts which you have written:

_____

_____

_____

_____

Have you developed or assisted in the development of chiropractic statutes, regulations, and/or guidelines?
YES ☐ NO ☐ If yes, attach a description of each experience.

SECTION 7 –DISCIPLINARY INFORMATION

Have you ever been involved in a malpractice lawsuit or arbitration proceeding related to your treatment of a patient? YES ☐ NO ☐
If yes, attach an explanation on a separate attachment, for each lawsuit or arbitration complaint.

Are there currently any medical malpractice lawsuits or arbitration claims pending against you?
YES ☐ NO ☐
If yes, attach an explanation on a separate attachment, for each lawsuit or arbitration complaint.

Has your professional liability insurance coverage ever been denied, limited, or cancelled by the action of any insurance company? YES ☐ NO ☐
If yes, attach an explanation on a separate attachment, for each occurrence.

Be sure to answer all questions. If you answer "yes" to any of the following, attach an explanation on a separate piece of paper.

(A) Has your chiropractic license (in this state or another state) or any health related professional licensing or disciplinary body in any state, territory or foreign jurisdiction, or any branch of the military, denied, limited, placed on probation, restricted, suspended, cancelled or revoked any professional license, certificate, or registration granted to you, or imposed a fine, reprimand, or taken any other action against you?
YES ☐ NO ☐

(B) Has your participation in any private, state, or federal health insurance program ever been the subject of disciplinary action? YES ☐ NO ☐

(C) Has any other type of professional sanction, discipline, or other adverse action ever been taken against you? YES ☐ NO ☐

(D) Have you ever been the subject of an investigation by any private, state, or federal health insurance program? YES ☐ NO ☐

(E) Have you ever been convicted of a misdemeanor or felony or are you currently under indictment for any alleged criminal activities? YES ☐ NO ☐

(F) Have you ever been the subject of an administrative, civil, or criminal complaint or investigation regarding sexual misconduct? YES ☐ NO ☐

(G) Have you ever voluntarily surrendered a professional license, staff privileges or consented to a limitation of the same pending a review or investigation? YES ☐ NO ☐

(H) Are there any other issues that should be disclosed that may have an adverse impact on your ability to deliver effective and objective professional services? YES ☐ NO ☐

SECTION 8 –PERSONAL SUMMARY/WRITING SAMPLE

Attach a 1-page typed document, answering the following question (include an overview of your qualifications, including experience and training):

Why do you want to be an expert witness for the California Board of Chiropractic Examiners?

If available, provide a sample copy of your most recent Med/Legal or Expert Consultant report written by you. Be sure to redact all personal and confidential information. ☐ - A sample report is unavailable

SECTION 9 –REFERENCES

List two professional references who can verify your knowledge and ability to perform the necessary functions of an Expert for the Board:

Name: (Last, First)		Relationship:
Company		Telephone No.:
Address:		
City:	State:	ZIP Code:
Name: (Last, First)		Relationship:
Company		Telephone No.:
Address:		
City:	State:	ZIP Code:

SECTION 10 –AFFIDAVIT

Please Read and Initial each Paragraph

I hereby certify that I have not knowingly withheld any information that might adversely affect my appointment as an expert reviewer and the answers given by me are true and correct to the best of my knowledge. I further certify that I, the undersigned applicant, have personally completed this application. _____

I hereby authorize the Board to thoroughly investigate all of the information I have provided on this application, including attachments, as well as my references, work record, education and other matters related to my suitability for appointment as an expert and, further, authorize the references I have listed to disclose to the Board any and all letters, reports and other information related to my work records, without giving me prior notice of such disclosure. In addition, I hereby release the Board, my current and former employers and all other persons, corporations, partnerships and associations from any and all claims, demands or liabilities arising out of or in any way related to such investigation or disclosure. _____

I hereby certify under penalty of perjury under the laws of the State of California that all statements, answers and representations in this application, including all attachments, are true and accurate.

Signature of Applicant: _____ **Date:** _____

MEMORANDUM

TO:	BCE BOARD MEMBERS
FROM:	SERGIO AZZOLINO, D.C., CHAIR, ENFORCEMENT COMMITTEE
SUBJECT:	FOR YOUR CONSIDERATION
DATE:	APRIL 16, 2015
CC:	ROBERT PULEO, SANDRA WALKER, CHRISTINA BELL

Good morning colleagues,

The Enforcement Committee (ECM) is bringing forward these items for your approval and consideration at today's Board meeting. The (ECM) presents for the Board's approval the following three items:

- **Proposed and revised language for California Code of Regulations Section(s) 318 and 312.2**
  - The Committee has added new and more detailed information to these regulations regarding licensee practice closure, notification of practice transition and/or patient record relocation. A clearly defined process for notifying appropriate parties during a practice transition or closure is important not only from a compliance perspective but from a consumer/patient one as well. Timely notification to the Board, appropriate transfer or disposal of patient records, and sufficient patient notification were important considerations when developing these provisions.
- **Guidelines for When a Chiropractic Practice Closes**
  - This informational guideline sheet will be available on the Board's website and will be helpful to both licensees and consumers when a chiropractic practice is closing or being transferred to another doctor of chiropractic.
- **Notice of Termination of Practice and Transfer of Patient Records Form**
  - This new form, No. 318 (rev 4/15), is incorporated by reference in the proposed regulatory language for CCR 318. This form is to be completed by the licensee or their representative when notifying the Board of a practice closure or transfer.

Thank you.

Proposed Text

§ 318. Chiropractic Patient Records/Consumer Notice Requirements After Death or Incapacity of Chiropractor or the Termination or Re-location of Practice/Accountable Billings.

(a) Chiropractic Patient Records. Each licensed chiropractor or the unlicensed heir, trustee, executor, administrator, conservator or personal representative acting pursuant to Section 312.2 is required to maintain all active and inactive chiropractic patient records for five years from the date of the doctor's last treatment of the patient unless state or federal laws require a longer period of retention. Active chiropractic records are all chiropractic records of patients treated within the last 12 months. Chiropractic patient records shall be classified as inactive when there has elapsed a period of more than 12 months since the date of the last patient treatment.

All chiropractic patient records shall be available to any representative of the Board upon presentation of patient's written consent or a valid legal order. Active chiropractic patient records shall be immediately available to any representative of the Board at the chiropractic office where the patient has been or is being treated. Inactive chiropractic patient records shall be available upon ten days notice to any representative of the Board. The location of said inactive records shall be reported immediately upon request.

Active and inactive chiropractic patient records must include all of the following:

(1) Patient's full name, date of birth, and social security number (if available);

(2) Patient gender, height and weight. An estimated height and weight is acceptable where the physical condition of the patient prevents actual measurement;

(3) Patient history, complaint, diagnosis/analysis, and treatment must be signed by the primary treating doctor. Thereafter, any treatment rendered by any other doctor must be signed or initialed by said doctor;

(4) Signature of patient;

(5) Date of each and every patient visit;

(6) All chiropractic X-rays, or evidence of the transfer of said X-rays;

(7) Signed written informed consent as specified in Section 319.1.

(b) Within one (1) month from the date of termination of practice or the chiropractor's death or declared incompetency, the chiropractor who has terminated his or her practice, or the unlicensed heir, trustee, executor, administrator, conservator or personal representative of a deceased or incapacitated chiropractor, or the succeeding licensed chiropractor shall notify all active patients and the Board in writing of the termination of the licensed chiropractor's practice. This written notice to the Board shall also contain the location where the active chiropractic patient records can be found. Notice to the Board shall be provided on the form entitled "Notice of Termination of Practice and Transfer of Patient Records," (Form No. 318 (rev

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04/15)), which is hereby incorporated by reference. Notice to active patients shall be provided via first class mail to the last known address. This notice shall be posted on the Board's website. Records shall be disposed of or destroyed in such a manner as to preserve the confidentiality of the information contained therein by shredding, erasing or otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

(c) A licensed chiropractor who relocates his or her practice and will no longer be available to his or her former patients shall follow the procedures listed in subsection (b). A licensed chiropractor who relocates to a practice site no more than 20 miles away from any previous practice site shall notify the Board of his or her change of address to the Board in accordance with Section and, either provide written notice of such relocation one month prior to relocating to all active patients by first-class mail, or shall follow the procedures listed in subsection (b) . If the patient was treated by more than one chiropractor, the patient is a patient of the practice.

(d) If a patient was younger than 18 years of age when last treated by a licensee, the chiropractic records of the patient shall be maintained until the patient reaches age 21 or for 5 years from the date of last treatment, whichever is longer.

(e) A licensed chiropractor who terminates his practice, places his or her license in an inactive status or the unlicensed heir, trustee, executor, administrator, conservator or personal representative acting pursuant to Section 312.2 or succeeding licensed chiropractor of a deceased or legally incompetent chiropractor shall refund any part of fees paid in advance that have not been earned within one month of the termination of practice or the transfer of the practice to a succeeding licensed chiropractor.

(~~b~~f) Accountable Billings. Each licensed chiropractor is required to ensure accurate billing of his or her chiropractic services whether or not such chiropractor is an employee of any business entity, whether corporate or individual, and whether or not billing for such services is accomplished by an individual or business entity other than the licensee. In the event an error occurs which results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in any way compensated for such reimbursement by his employer, agent or any other individual or business entity responsible for such error. Failure by the licensee, within 30 days after discovery or notification of an error which resulted in an overbilling, to make full reimbursement constitutes unprofessional conduct.

Note: Authority cited: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)), and section 1798.81 of the Civil Code. Reference: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)), and section 1798.81 of the Civil Code.

§ 312.2. Ownership of Practice upon the Death or Incapacity of a Licensee.

In the event of the death of a chiropractic licensee, or the legal declaration of the mental incompetency of the licensee to practice, the unlicensed heirs, ~~or~~ trustees, executor, administrator, conservator or personal representative of the chiropractor must dispose of the practice within six (6) months. At all times during that period the practice must be supervised by a licensed chiropractor. The board will consider a petition to extend this period if it is submitted within four (4) months after the death or the declaration of incompetence of the licensee, including identification of any extenuating circumstances that will prevent compliance.

Note: Authority cited: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)). Reference: Sections 1000-7, 1000-10 and 1000-15, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) .

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BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

GUIDELINES FOR WHEN A CHIROPRACTIC PRACTICE CLOSES

The following provides guidance to chiropractors regarding the closure of or departure from a chiropractic practice. For rules and regulations regarding the closing of a practice, please visit our website under "Rules and Regulations"; specifically sections 312.2 and 318 for details and further information.

It is the Board's position that due care should be exercised when closing or departing from a chiropractic practice, whether it is temporary or permanent. Not only does this ensure a smooth transition from the current chiropractor to the new chiropractor, but it also reduces the liability of "patient abandonment." Therefore, to ensure this occurs with a minimum of disruption in continuity of care, the chiropractor terminating the chiropractor-patient relationship should notify patients sufficiently in advance.

It is the patient's decision from whom to receive chiropractic care. Therefore, it is the responsibility of all chiropractors and other parties who may be involved to ensure that:

- Board Notification- Official notification to the Board of Chiropractic Examiners pursuant to CCR section 318.
- Website Notification- The D.C.'s website may reflect status of the practice, where patient records can be located and who to contact for information and/or chiropractic care. It is suggested the website stay active for at least 6 months.
- Voicemail-The D.C.'s main phone number should stay active for at least 6 months advising callers of the status of the practice, where patient records can be located and who to contact for information and/or chiropractic care.
- Electronic Mail (E-mail)- An e-mail notification may be sent out to any patients the practice holds an email address for. The e-mail should reflect status of the practice, where patient records can be located and who to contact for information and/or chiropractic care.
- Local Newspaper- An announcement in the local newspaper may be taken out to inform patients of the status of the practice, where patient records can be located and who to contact for information and/or chiropractic care.

Unlicensed individuals are not allowed to perform the services of a chiropractor; including owning and operating a chiropractic practice (CCR 312.1 & 312)

T (916) 263-5355
F (916) 327-0039
TT/TDD (800) 735-2929
Consumer Complaint Hotline
(866) 543-1311

Board of Chiropractic Examiners
901 P Street, Suite 142A
Sacramento, California 95814
www.chiro.ca.gov

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF TERMINATION OF PRACTICE AND TRANSFER OF PATIENT RECORDS

California Code of Regulations - Section 318(b)

Chiropractic Practice Details

Licensee Name:		License Number: DC
Practice Address of Record:		
City:	State:	Zip Code:
Phone:	Fax:	E-mail:

Termination Details

Date of Chiropractic Practice Closure:

Address Where Patient Records Will be Maintained:

Contact Person For Patient Records:

Name_____

Address_____

Phone:_____

E-mail:_____

Type of Designee:

- ☐ Unlicensed Heir
- ☐ Trustee
- ☐ Executor
- ☐ Administrator
- ☐ Conservator
- ☐ Personal Representative
- ☐ Licensed Chiropractor (Successor)

_____ License Number

Termination Reason

Date: _____

☐ Death

☐ Declared Incompetent

Contact Name/Address/Phone of Declarant:

_____

_____

☐ Other_____

☐ Revocation/Disciplinary Action

☐ Retirement

☐ Relocation

Address of New Chiropractic Office Location

_____

_____

T (916) 263-5355
F (916) 327-0039
TT/TDD (800) 735-2929
Consumer Complaint Hotline
(866) 543-1311

Board of Chiropractic Examiners
901 P Street, Suite 142A
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www.chiro.ca.gov

☐ I confirm that all active patients have been notified via standard mail, to the last known address, of the practice closure.

I declare, under penalty of perjury, under the laws of the State of California that the foregoing is true, correct and complete to the best of my knowledge.

_____

Signature of Terminating Chiropractor or Representative

_____

Name of Terminating Chiropractor or Representative (Please Print)

Date:_____

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Updates on Proposed Regulations

Exhibit 12

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

MEMORANDUM

Date: April 9, 2015

To: Board Members

From: Dixie Van Allen DVA
Policy Analyst

Telephone: (916) 263-5355 x 5329

Subject: Agenda Item #12B – **Updates on Proposed Regulations**

The proposed Sponsored Free Healthcare rulemaking package was submitted to the Office of Administrative Law on January 21, 2015 for review and approval. On March 5, 2015, the Board of Chiropractic Examiners (BCE) was informed that the rulemaking proposal was denied for failure to comply with the clarity and necessity standards set forth in Govt. Code Section 11349.1 and failure to follow the required procedure for rulemaking. A copy of the disapproval decision in enclosed in your packet.

In response to the disapproval decision, the BCE has amended the proposed language and "Request for Authorization to Practice Without a License at a Registered Free Health Care Event", Form 901-B/2015. The BCE has 120 days from the date of denial to resubmit this package to OAL for approval.

Specific changes to the language are shown as follows:

- Page 3, Section 309.2(a)(1) – date of form was revised to reflect date of current changes.
- Page 4, Section 309.2(c)(1)(A) – date of form was revised to reflect date of current changes.
- Page 4, Section 309.2(c)(1)(E) – "or" was added to clarify that the board can deny authorization for a health care provider to participate if any one of the reasons specified in this subsection applies to the applicant.
- Page 5, Section 309.2(c)(2)(D) – This subparagraph was stricken because it is a standard set by the Dental Board, which we mirrored this language from. It is unlikely that the BCE will receive many requests from chiropractors to participate in a sponsored free health care event and even more unlikely that a chiropractor would apply to participate in more than three such events in a year.

If this circumstance should arise, the Board will investigate the reason(s), assess the sponsoring entity's needs, and determine, on a case by case basis, whether to grant approval to for participation. As such, this provision was removed rather than attempting to spell out the reasons the Board may allow an applicant to participate in more than three sponsored free health care events in a year.

Specific changes to the "Request for Authorization to Practice Without a License at a Registered Free Health Care Event" include:

- Page 1, Part 1 – "Non-refundable" was added in two portions under the first bullet to specify that all fingerprint fees are non-refundable.
- Page 3, Part 3, Question #1 – "license" was added.
- Page 4, Part 3, Question #4 – "that you currently hold or held in the past" was added to clarify that this does not include actions that the applicant has taken against another licensee.
- Footer – Date of form was changed from 2013 to 2015 based on these revisions.

ACTION NEEDED: A motion is needed to approve the proposed amended language and "Request for Authorization to Practice Without a License at a Registered Free Health Care Event", Form 901-B/2015, authorize the Executive Officer to make any non-substantive changes to the rulemaking package, and direct staff to initiate a 15-day comment period in response to the disapproval decision.

TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS
Sponsored Free Health Care Events
Cal. Code of Reg., Title 16, Division 4, Article 1.5

The following proposed language reflects the changes to the regulations as they appeared in the Order of Adoption based on the previous 45-day and 15-day comment period with proposed changes to the language approved by the Board shown in single strikeout for deletions and single underline for additions. Proposed new changes to the regulation are shown in bold and double underline. Proposed new deletions to the regulation are shown in double strikethrough. (For purposes of comparison, copies of the prior noticed versions of this regulation are available on the Board's website at http://www.chiro.ca.gov/laws_regs/prop_regs.shtml and are also available upon request.)

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/ 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/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/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~~**2015**), 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~~**2015**) 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; **or**

(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.

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 **non-refundable** 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 **non-refundable** $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 Phone

_____ _____
Address Line 2 Alternate Phone

_____ _____
City, State, Zip 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 **license** 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 **that you currently hold or held in the past**?

___ 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.

State of California
Office of Administrative Law

In re: **Board of Chiropractic Examiners**	**DECISION OF DISAPPROVAL OF REGULATORY ACTION**
Regulatory Action: Title 16 **California Code of Regulations**	**Government Code Section 11349.3**
Adopt sections: 309, 309.1, 309.2, 309.3, 309.4 **Amend sections:** **Repeal sections:**	**OAL File No. 2015-0121-01S**

SUMMARY OF REGULATORY ACTION

This rulemaking action by the Board of Chiropractic Examiners (the "Board") proposes to adopt sections 309, 309.1, 309.2, 309.3, and 309.4 in title 16 of the California Code of Regulations ("CCR"). Specifically, proposed regulations would implement, interpret, and make specific the provisions of Business and Professions Code section 901 as it pertains to licensed doctors of chiropractic. This includes the application and registration requirements, disciplinary actions, recordkeeping requirements, and provisions for terminating the exemption of an out-of-state licensed doctor of chiropractic who wishes to participate in a sponsored free health care event. Lastly, the Board proposes to incorporate two forms by reference through this rulemaking action.

On January 21, 2015, the Board submitted the above-referenced rulemaking action to the Office of Administrative Law ("OAL") for review. On March 5, 2015, OAL notified the Board of OAL's decision to disapprove the proposed rulemaking. This Decision of Disapproval of Regulatory Action explains the reasons for OAL's action.

DECISION

OAL disapproved the above-referenced rulemaking action for the following reasons: the proposed regulations failed to comply with the clarity standard of Government Code section 11349.1; the proposed regulations failed to comply with the necessity standard of Government Code section 11349.1; and the agency failed to follow required Administrative Procedure Act ("APA") procedures.

All APA issues must be resolved prior to OAL's approval of any resubmission.

DISCUSSION

The Board's regulatory action must satisfy requirements established by the part of the APA that governs rulemaking by a state agency. (See Gov. Code, sec. 11340 et seq.) Any regulation adopted, amended, or repealed by a state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure, is subject to the APA unless a statute expressly exempts the regulation from APA coverage. (Gov. Code, sec. 11346.)

Before any regulation subject to the APA may become effective, the regulation is reviewed by OAL for compliance with the procedural requirements of the APA and for compliance with the standards for administrative regulations set forth in Government Code section 11349.1. (See Gov. Code, sec. 11340.1, subd. (a).) Generally, to satisfy the APA standards, a regulation must be legally valid, supported by an adequate record, and easy to understand. In this review, OAL is limited to the rulemaking record and may not substitute its judgment for that of the rulemaking agency with regard to the substantive content of the regulation. (*Ibid.*) This review is an independent check on the exercise of rulemaking powers by executive branch agencies intended to improve the quality of regulations that implement, interpret, and make specific statutory law, and to ensure that the public is provided with a meaningful opportunity to comment on regulations before they become effective.

1. Clarity

In adopting the APA, the Legislature found that the language of many regulations was unclear and confusing to persons who must comply with the regulations. (Gov. Code, sec. 11340, subd. (b).) Government Code section 11349.1, subdivision (a)(3) requires that OAL review all regulations for compliance with the clarity standard. Government Code section 11349, subdivision (c) defines "clarity" to mean that regulations are "written or displayed so that the meaning of the regulations will be easily understood by those persons directly affected by them." The "clarity" standard is further defined in section 16 of title 1 of the CCR, OAL's regulation on "clarity," which provides the following:

> In examining a regulation for compliance with the "clarity" requirement of Government Code section 11349.1, OAL shall apply the following standards and presumptions:
>
> (a) A regulation shall be presumed not to comply with the "clarity" standard if any of the following conditions exists:
>
> (1) the regulation can, on its face, be reasonably and logically interpreted to have more than one meaning; or
>
> (2) the language of the regulation conflicts with the agency's description of the effect of the regulation; or
>
> . . .
>
> (4) the regulation uses language incorrectly. This includes, but is not limited to, incorrect spelling, grammar or punctuation; or

. . . .

Each instance of non-compliance with the clarity standard of the APA is set forth below:

1.1. Section 309.2, Subdivision (c)(2)(D): Denial of Request for Authorization to Participate

Pursuant to the proposed Section 309.2, subdivision (c)(2)(D), "The board *may* deny a request for authorization to participate if . . . [t]he applicant has participated in 3 sponsored events during the 12 month period immediately preceding the current application." (Emphasis added.) The initial statement of reasons (the "ISR") provides the following rationale for the adoption of this subdivision:

> . . . It would be against the public interest to permit an applicant to practice, even temporarily for a limited purpose, in this State without a license for more than 3 sponsored events per year (maximum of 30 calendar days per year). As a result, the proposed regulation would specify that grounds for denial of authorization to practice for an out-of-state practitioner would include that the applicant had participated in three sponsored events during the 12-month period immediately preceding the current application.

(ISR, p. 12.)

The primary clarity issue with subdivision (c)(2)(D) is that the rationale for the adoption of this subdivision leaves some ambiguity as to whether the threshold is three sponsored events or participation for 30 calendar days per year, and whether reaching this threshold leads to the automatic denial of a request for authorization to participate. The Board states, "It would be against the public interest to permit an applicant to practice, even temporarily for a limited purpose, in this State without a license for more than 3 sponsored events per year (maximum of 30 calendar days per year)." (ISR, p. 12.) What if an applicant participated in three sponsored events during the preceding 12-month period, but only participated for one day at each event for a total of three days? Would permitting the applicant to practice at a fourth sponsored event be "against the public interest"? Based on the Board's explanation in the ISR, it appears as though their primary concern is that participation in three sponsored events allows an out-of-state practitioner to practice in California without a license for up to 30 calendar days. However, the regulation text does not mention the number of days as a factor leading to the possible denial of a request for authorization to participate. As it currently exists, "the language of the regulation conflicts with the agency's description of the effect of the regulation." (Cal. Code Regs., tit. 1, sec. 16, subd. (a)(2).) If the Board is only concerned about the number of sponsored events an out-of-state applicant has participated in during the preceding 12-month period, then the Board must clarify this point in another addendum to the ISR. If the Board is primarily concerned about the number of days an out-of-state applicant has participated in sponsored events during the preceding 12-month period, then the Board must revise the regulation text accordingly. It is equally unclear whether having practiced at three sponsored events during the preceding 12-month period leads to automatic denial of a request for authorization to participate, or whether denial on these grounds is permissive. Section 309.2, subdivision (c)(2)(D) is listed as a situation where the Board "*may* deny a request for authorization to participate[.]" (Emphasis

added.) However, the ISR explains that it would be against the public interest to permit an applicant to practice in California without a license for more than three sponsored events. (ISR, p. 12.) This explanation leads to the reasonable and logical inference that any request for authorization to participate at a fourth sponsored event within a 12-month period leads to the automatic denial of a request to participate. (See Cal. Code Regs., tit. 1, sec. 16, subd. (a)(1), (2).) The Board needs to clarify whether participating in three sponsored events during the preceding 12-month period leads to the automatic denial of a request to participate in a fourth event, or if there are some situations where applicants may be permitted to participate in a fourth event. If the Board chooses the latter option, then they must also set forth the circumstances under which they will allow an applicant to participate in a fourth sponsored event or more in a 12-month period.

Another clarity issue with the proposed Section 309.2, subdivision (c)(2)(D) is that it is not clear whether the 12-month period set forth in the regulation is calculated from (a) the date the application is received, (b) the date the application is reviewed (or, if the review occurs over a span of several days, which day within that period), or (c) the date the Board renders a decision on the application. Depending on which date is used for the purposes of this calculation, an application may or may not be subject to denial upon these grounds. As such, "the regulation can, on its face, be reasonably and logically interpreted to have more than one meaning" (Cal. Code Regs., tit. 1, sec. 16, subd. (a)(1)).

1.2. "Request for Authorization to Practice Without a License at a Registered Free Health Care Event", Form 901-B (BCE/2013)

"Incorporation by Reference" means "the method whereby a regulation printed in the [CCR] makes provisions of another document part of that regulation by reference to the other document." (Cal. Code Regs., tit. 1, sec. 20, subd. (a).) "Material proposed for 'incorporation by reference' shall be reviewed in accordance with procedures and standards for a regulation published in the [CCR]." (*Id.* at subd. (b).) The Board proposes to incorporate two documents by reference through this rulemaking action: "Registration of Sponsoring Entity Under Business & Professions Code Section 901", Form 901-A (DCA/2014 – revised) (the "Registration Form"), and "Request for Authorization to Practice Without a License at a Registered Free Health Care Event", Form 901-B (BCE/2013) (the "Request for Authorization Form"). Pursuant to subdivision (b) of section 20 of title 1 of the CCR, both forms "shall be reviewed in accordance with the procedures and standards for a regulation published in the [CCR]." (*Ibid.*)

There are several clarity issues regarding the Request for Authorization Form. The first issue is whether the $59.00 application processing fee set out in Part 1 of the application is non-refundable. The proposed Section 309.2, subdivision (a)(1) states that this fee is non-refundable. However, the Request for Authorization Form, which also lists the fee, does not state that it is non-refundable. This is an issue since the same application form clarifies that a separate fee of $49.00 for processing ink cards is non-refundable, so there should be consistency in how the application addresses and clarifies whether fees are non-refundable. If the $59.00 fee is non-refundable, then the Board must add a statement to Part 1 of the Request for Authorization Form clarifying this aspect of the fee.

The second clarity issue with the Request for Authorization Form lies in Part 3 of the application. Question 4 asks, "Have you ever had any disciplinary action taken against a doctor of chiropractic license or other healing arts license?" It is not clear whether the scope of this question is limited to actions taken against licenses held by the applicant, or if it also includes actions taken by the applicant against licenses held by other licensees. As such, "the regulation can, on its face, be reasonably and logically interpreted to have more than one meaning[.]" (Cal. Code Regs., tit. 1, sec. 16, subd. (a)(1).) Question 3 provides an example where the scope of the question is clear: "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?" The phrase "that you currently hold or held in the past" clarifies that the scope of this question is limited to charges filed against licenses held by the applicant. If the scope of Question 4 is also limited to licenses held by the applicant, then OAL suggests adding a phrase similar to the one identified in Question 3.

OAL also notes two final clarity issues with the Request for Authorization Form. The ISR states that Part 2 of the Request for Authorization Form requires applicants to provide the name and location of the chiropractic college from which the applicant graduated. (ISR, p. 9.) However, there is no request for this information in this section of the application. Rather, the applicant is required to provide this information in Part 3 of the Request for Authorization Form. (See Cal. Code Regs., tit. 1, sec. 16, subd. (a)(2).) The Board must clarify this statement in the final statement of reasons (the "FSR"). Lastly, Question 1 in Part 3 of the Request for Authorization Form asks, "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)?" The word "license" must be added between the words "valid" and "issued" to clarify the scope of this question. (See Cal. Code Regs., tit. 1, sec. 16, subd. (a)(4).)

1.3. Section 309.2, Subdivision (c)(1): Denial of Request for Authorization to Participate

OAL also notes a clarity issue with the proposed Section 309.2, subdivision (c)(1). This subdivision lists six circumstances under which the Board shall deny a request from a healthcare practitioner for authorization to participate in a sponsored event. Neither an "and" nor an "or" appears at the end of the fifth item on this list, which is located at Section 309.2, subdivision (c)(1)(E). The ISR indicates that it is not necessary for every condition listed in subdivision (c)(1)(A) through (F) to be met in order for the Board to deny a request for authorization to participate. (See ISR, p. 11 ["[F]ailure to meet any of the specified requirements determined by the Board and discussed under section 309.2(a) of these proposed regulations will constitute an automatic denial of the application."].) The ISR indicates that satisfying any of the conditions listed in subdivision (c)(1)(A) through (F) leads to the automatic denial of a request for authorization to participate. Based on the regulation text alone, it is unclear whether all conditions listed in subdivision (c)(1)(A) through (F) must be met, or if just one of these conditions must be met in order for the Board to deny a request for authorization to participate in a sponsored event. Therefore, subdivision (c)(1) violates the clarity standard since "the regulation can, on its face, be reasonably and logically interpreted to have more than one meaning." (Cal. Code Regs., tit. 1, sec. 16, subd. (a)(1), (2).) The Board needs to resolve this clarity issue.

For the reasons discussed above, the Board failed to comply with the clarity standard of the APA. The Board must make all substantial regulatory text changes, which are sufficiently related to the original text, available to the public for comment for at least 15 days pursuant to Government Code section 11346.8, subdivision (c), and section 44 of title 1 of the CCR before the Board adopts the regulations and resubmits this regulatory action to OAL for review. Additionally, any comments made in relation to these proposed modifications must be presented to the Board for consideration and be summarized and responded to in the FSR. (Gov. Code, sec. 11346.8, subd. (c); see also Gov. Code, sec. 11346.9, subd. (a)(3).)

2. Necessity

In addition to clarity, OAL also reviews proposed regulations for necessity. (Gov. Code, sec. 11349.1, subd. (a)(1).) "Necessity" is defined in Government Code section 11349, subdivision (a), as follows:

> "Necessity" means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion.

This necessity must be provided in the ISR, which must include "[a] statement of the specific purpose of each adoption, amendment, or repeal, . . . and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed." (Gov. Code, sec. 11346.2, subd. (b)(1); see also Cal. Code Regs., tit. 1, sec. 10.) Each instance of non-compliance with the necessity standard of the APA is set forth below:

2.1. Section 309.1, Subdivision (c): Recordkeeping Requirements

The proposed Section 309.1, subdivision (c), sets forth the recordkeeping requirements for sponsored entities that provide, or arrange for the provision of, health care services at a sponsored health care event under Business and Professions Code section 901. The last regulatory provision in this subdivision requires that the sponsoring entity provide copies of any record required to be maintained to any representative of the Board within 15 calendar days of the request. The rulemaking file does not contain any evidence explaining why the period of 15 calendar days was chosen.

2.2. Section 309.3, Subdivision (e): Informal Conference Option

The proposed Section 309.3, subdivision (g) allows an out-of-state practitioner the option of requesting an informal conference with the Executive Officer regarding the reasons for the termination of an authorization to participate. This subdivision also states that the Executive Director has 10 days from the date of the informal conference to mail a copy of his or her findings to the out-of-state practitioner. The rulemaking file does not contain any evidence explaining why the period of 10 days was chosen.

2.3. Section 309.4, Subdivision (a): Notice Requirement

The proposed Section 309.4, subdivision (a) requires each out-of-state practitioner to post a notice visible to patients or prospective patients at every station where patients will be seen. This notice must "be in at least 48 point Arial font" and include information specified in the proposed regulation text regarding the practitioner's limited authorization to provide chiropractic services at the sponsored event. The rulemaking file does not contain any evidence explaining why the specific font and font size required by this subdivision was chosen.

2.4. Request for Authorization Form

There are several issues regarding the necessity for different regulatory provisions in the Request for Authorization Form. The first issue is found on page 2 of the application and relates to fingerprint processing. Regarding the "Ink on Card" method, the application states that other state's fingerprint cards will not be accepted. However, the rulemaking file does not include any explanation or evidence supporting the need for this regulatory provision.

The second issue regarding necessity lies with a regulatory provision found in Part 4 of the Request for Authorization Form. Part 4 contains the following 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." The rulemaking file does not contain any necessity explaining why the period of 48 hours was chosen.

Lastly, the "Notice of Collection of Personal Information" section of the Request for Authorization Form contains the following statement: "The information collected may be transferred to other governmental and enforcement agencies." It is not clear from the application or the ISR why the Board needs such broad consent to share an applicant's personal information with "other governmental and enforcement agencies[,]" and the rulemaking file does not contain any evidence supporting the need for this regulatory provision.

For the reasons discussed above, the Board failed to comply with the necessity standard of the APA. The Board must resolve these issues through another addendum to the ISR and make this document available to the public for comment for at least 15 calendar days pursuant to Government Code section 11347.1 before the Board adopts the regulations and resubmits this regulatory action to OAL for review. Additionally, any comments made in relation to this addendum must be presented to the Board for consideration and be summarized and responded to in the FSR. (Gov. Code, sec. 11346.8, subd. (c); see also Gov. Code, sec. 11346.9, subd. (a)(3).)

3. Failure to Follow Procedure

OAL also notes the following procedural issues that must be addressed prior to any resubmission of this rulemaking action:

3.1. Board Approval of Regulation Text

Where a board is required to adopt regulations, the rulemaking record must provide evidence that the board with rulemaking authority adopted the proposed regulations after complying with all public availability requirements. (See Gov. Code, sec. 11346.8; see also Gov. Code, sec. 11347.4(b)(8); Cal. Code Regs., tit. 1, sec. 90, subd. (a).) Section 4, subdivision (b) of the Chiropractic Act[1] grants power to the Board to adopt, amend, and repeal regulations in accordance with the requirements of the APA.

The rulemaking record contains the public session minutes from Board meetings held on October 29, 2013, and April 24, 2014. At the meeting held on October 29, 2013, the Board unanimously passed a motion to commence "the rulemaking process for sponsored free health care event regulations and to delegate authority to the executive officer to make non-substantive changes to the language if necessary." (Board of Chiropractic Examiners Public Session Minutes, dated Oct. 29, 2013, pp. 4-5.) The 45-day comment period for this rulemaking action lasted from January 24, 2014, to March 10, 2014. At the meeting held on April 29, 2014, the Board unanimously passed a motion "to take all steps necessary to finalize the rulemaking process, authorize the executive officer to make the non-substantive changes [required by DCA] and adopt the regulations as discussed[.]" (Board of Chiropractic Examiners Public Session Minutes, dated Apr. 29, 2014, p. 7.) The Board then made the modified regulation text (including modifications to one of the forms incorporated by reference), fiscal impact estimates, and an addendum to the ISR available from June 27, 2014, to July 11, 2014.

Although both sets of meeting minutes reflect general Board approval of this regulatory action, neither set of public session minutes indicate that the Board ever reviewed and approved the proposed regulation text, including the two forms being incorporated by reference. Therefore, there is no evidence in the rulemaking file that the Board ever adopted the proposed regulations after complying with all public availability requirements, nor could the Board produce any such evidence upon request.[2] Upon resubmitting the rulemaking action, the Board needs to include evidence in the rulemaking file that they reviewed and adopted the final modified regulation text.

3.2. ISR – Adoption of a Prescriptive Standard in Section 309.4, Subdivision (a)

Pursuant to Government Code section 11342.590, "prescriptive standard" means "a regulation that specifies the sole means of compliance with a performance standard by specific actions, measurements, or other quantifiable means." As stated in section 2.3, *supra*, the proposed Section 309.4, subdivision (a) requires that each out-of-state practitioner post a notice visible to patients or prospective patients at every station where patients will be seen. This notice must "be in at least 48 point Arial font" and include specific language set forth in the

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[1] The Chiropractic Act is an initiative measure appearing in West's Annotated Business and Professions Code following section 100 and in the appendix to Deering's Business and Professions Code.

[2] The Board did provide the public session minutes from their teleconference on June 26, 2014, but these minutes similarly fail to prove that the Board reviewed and adopted the final modified regulation text.

proposed regulation text regarding the practitioner's limited authorization to provide chiropractic services at the sponsored event. The regulation specifies the sole means of compliance with the notice requirement by setting forth specific font, font size, and the language that must be included in the notice. As such, the proposed Section 309.4, subdivision (a) falls within the meaning of a "prescriptive standard" pursuant to Government Code section 11342.590.

If the proposed regulatory action prescribes specific actions or procedures, the ISR shall include evidence that the agency considered the imposition of performance standards as an alternative and the reasons for rejecting the performance standards. (See Gov. Code, sec. 11346.2, subd. (b)(4)(A); see also Gov. Code, sec. 11340.1, subd. (a).) It has already been established that the proposed Section 309.4, subdivision (a) constitutes a prescriptive standard. However, the ISR does not contain any evidence that the Board considered the imposition of performance standards as an alternative or why the Board rejected performance standards. Prior to resubmitting the rulemaking action, the Board must provide evidence or documentation that performance standards were considered as an alternative to the adopted requirements of subdivision (a) and why the performance standards were rejected. The Board must also make this evidence or documentation available pursuant to Government Code section 11347.1.

For the reasons discussed above, the Board failed to comply with APA procedural requirements. The Board must resolve these issues through another addendum to the ISR and make this document available to the public for comment for at least 15 calendar days pursuant to Government Code section 11347.1 before the Board adopts the regulations and resubmits this regulatory action to OAL for review. The resubmitted regulatory action must also contain evidence or documentation that the Board reviewed and adopted the final modified regulation text after complying with all public availability requirements. Lastly, any comments made in relation to these documents must be presented to the Board for consideration and be summarized and responded to in the FSR. (Gov. Code, sec. 11346.8, subd. (c); see also Gov. Code, sec. 11346.9, subd. (a)(3).)

CONCLUSION

OAL disapproved the above-referenced rulemaking action for the foregoing reasons. Pursuant to Government Code section 11349.4, subdivision (a), the Board may resubmit revised regulations within 120 days of its receipt of this Decision of Disapproval. If you have any questions, please contact me at (916) 324-6948.

Date: March 12, 2015

Steven J. Escobar
Attorney

For: DEBRA M. CORNEZ
Director

Original: Robert Puleo
Copy: Dixie Van Allen