BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Agenda Item 11
May 19, 2016

Update and Possible Action on Regulations

Purpose of the item

The Board will receive a status update on pending regulatory proposals. The Board will review and possibly take action on the Application for License and CE Requirement language, delegation of authority to the Assistant Executive Officer language, and Consumer Protection Enforcement Initiative language.

Action(s) requested

The Board will be asked to review and approve the proposed language modifying the disclosure contained in the BCE "Application for License to Practice Chiropractic" form 09A-1 (Rev. 05/16), "Chiropractic College Certificate" form No. 09-B2 (New 07/14), "Verification of Prechiropractic Hours" Form No. 09B-3 (New 07/14). If approved, the Board will make a motion to approve the modified language and authorize staff to notice the modified language for a 15-day comment period.

Additionally, the Board will review and possibly take action on the proposed language regarding the delegation of authority to the Assistant Executive Officer to perform specific enforcement actions and office operations in the absence of the Executive Officer. If approved, the Board will make a motion to approve the draft language and delegate authority to the executive offer to make any technical, non-substantive changes and initiate the rulemaking process.

Finally, the Board will be asked to review and take action on the proposed language regarding the Consumer Protection Enforcement Initiative (CPEI), which would add or amend 12 sections within the California Code of Regulations that would establish stricter reporting and disclosure requirements by licensees and applicants and increase the board's enforcement authority. If approved, the Board will make a motion to approve the draft language and delegate authority to the executive offer to make any technical, non-substantive changes and initiate the rulemaking process.

Background

The Board currently has ten regulatory proposals in various stages of completion.

Recommendation(s)

No recommendations at this time.

Next Step

Following the 15-day comment period, staff will make the necessary changes and finalize the language to bring forward at the next full board meeting.

Attachment(s)

1. BCE regulation tracking sheet
2. BCE regulation summary sheet
3. Application for License and CE Requirement language
   - Application for a license to practice chiropractic form
   - Chiropractic College Certificate form
   - Verification of Prechiropractic Hours form
4. Delegation of Authority to the Assistant Executive Officer proposed language
5. Consumer Protection Enforcement Initiative (CPEI) proposed language

BCE List of Prioritized Proposed Regulatory Changes

	Group A – Legislatively Mandated	Status
1	Application for Licensure (CCR Section 321)	**Rulemaking process was initiated 1/1/2016. Final text of regulations will be provided to the Board for approval & adoption 5/19/16.**
2	Consumer Protection Enforcement Initiative	**Rulemaking not yet started. However, Board will be asked to review and possibly approve draft language on 5/19/16.**
3	Uniform Standards for Substance Abusing Licensees	Rulemaking not yet started

	Group B	Status
1	Delegation of Authority to the Assistant Executive Officer	**Rulemaking not yet started. However, Board will be asked to review and approve proposed language 5/19/16.**
2	Revisions to BCE Disciplinary Guidelines	**Approved Rulemaking Process 7/30/15**
3	Mandatory Cardiopulmonary Resuscitation (CPR) Certification for all licensees	**Approved Rulemaking Process 7/30/15**
4	Comprehensive Revisions/Updates to CCR Article 4 (Sections 330 – 331.16) – Approved Schools & Qualifications of Applicants (Curriculum Requirements)	Rulemaking not yet started

	Group C	Status
1	Chiropractic Records Retention/Disposition of Patient Records Upon Closure of Practice or Death/Incapacity of Licensee	**Approved Rule Making Process 4/16/15.**
2	Continuing Education Requirements (CE Provider and Course Approval)	Rulemaking not yet started
3	Amend or Repeal CCR Section 354 - Successful Examination (Obsolete provision)	Rulemaking not yet started

Status options:

- Proposed Regulatory Change
- Approved Rulemaking Process
- Initiated Rulemaking Process
- Regulation adopted by Board
- Regulation pending DCA Approval
- Regulation pending OAL Approval
- Approved /Denied by OAL
- Effective Date

BCE List of Prioritized Proposed Regulatory Changes

Proposed Regulation	Proposed Change(s)
Application for Licensure (CCR Section 321)	The BCE will amend the application for licensure to comply with new legislation which will assist agencies in identifying past or present members of the military and their spouses in order to expedite the licensure process for these individuals. Additionally, the regulation would amend the CE regulations for consistency with the provisions of BPC section 114.3 to waive renewal fees, continuing education requirements, and other requirements for active duty members of the U.S. military. Also, the regulation proposes to allow the Board to award up to 16 hours of CE credit to licensees who participate in the review and revision of the California Law and Professional Practices Examination.
Consumer Protection Enforcement Initiative	The proposed changes would add or amend 12 sections within the California Code of Regulations that would establish stricter reporting and disclosure requirements by licensees and applicants and increase the board's enforcement authority and access to critical information for use in investigations.
Uniform Standards for Substance Abusing Licensees	The BCE will need to review and possibly amended the SB 1441 Uniform Standards for Substance Abusing Licensees. Ultimately, the Uniform Standards will be incorporated by reference into the Board's Disciplinary Guidelines.

Delegation of Authority to the Assistant Executive Officer	The proposed regulation would delegate to the Board's Assistant Executive Officer the authority to approve settlement agreements for revocation, surrender, and interim suspension of a license, or allow the Executive Officer to delegate this function to another designee.
Revisions to BCE Disciplinary Guidelines	The BCE's Disciplinary Guidelines are being revised to streamline the enforcement process and provide greater protection to consumers.
Mandatory Cardiopulmonary Resuscitation (CPR) Certification for all licensees	The regulation will add a new section CCR 371.1 which would require as a condition of licensure and license renewal all licensees maintain current CPR certification or basic life support from specified entities approved by the Board. Also, a licensee may earn 2 hours of CE for completion of CPR/BLS course. The regulation would also make technical and clarifying amendments for consistency and clarity.

Comprehensive Revisions/Updates to CCR Article 4 (Sections 330 – 331.16) – Approved Schools & Qualifications of Applicants (Curriculum Requirements)	
Chiropractic Records Retention/Disposition of Patient Records Upon Closure of Practice or Death/Incapacity of Licensee (Amendment to CCR Sections 312.2 and 318)	
CE Requirements (CE Provider and Course Approval)	
Amend or Repeal CCR Section 354 - Successful Examination (Obsolete provision)	

TITLE 16, BOARD OF CHIROPRACTIC EXAMINERS

Proposed Amendments to CCR §321 and §364

Modified text during the 45-day comment period: Additions are shown in single underline. Deletions are shown in single strikeout.

Modified text during the 1st 15-day comment period: Proposed additions are shown in bold, **double underline**. Proposed deletions are shown in ~~double strikethrough~~.

§ 321. Application for License.

An Application for a License to Practice Chiropractic shall be submitted on an application form (No. 09A-1 (Rev. ~~9/92~~ ~~06/14~~ ***05/16***)) prescribed and provided by the board, and titled Application for License to Practice Chiropractic, accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento, with the required nonrefundable application fee of one hundred dollars ($100.00). The application shall also include verifications showing satisfactory completion of 60 prechiropractic college credits and the minimum educational requirements for licensure from the chiropractic college attended by the applicant on forms entitled "Verification of Prechiropractic Hours," No. 09B-3 (New 07/14) and entitled "Chiropractic College Certificate," No. 09B-2 (New 07/14).

NOTE: Authority cited: Sections 1000-4(b)~~,~~ ~~and~~ 1000-4(c), and 1000-5, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii), Sections 27, 30, 114.5, 115.4, 115.5 , 480, 802(a) and Section 11019.11 of the Government Code. Reference: Section 1000-5, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii), Sections 27, 30, 114.5, 115.4, 115.5, 480, 802(a) and Section 11019.11 of the Government Code.

§364. Exemptions and Reduction of Requirement.

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

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

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

(c) An instructor who has taught for one (1) year and currently teaches core curriculum courses for more than eight (8) credit hours per week at any Council on Chiropractic

Education accredited college for at least six (6) months during any license renewal period year shall be exempt from continuing education.

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

(e) Notwithstanding Section 361(c), a licensee who is unable to attend continuing education courses due to a physical disability and provides written certification from a primary health care provider may earn all 24 hours of continuing education credits for the period of the license renewal through Board-approved distance learning courses as defined in Section 363.1.

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

(g) A licensee who participates in the entire two-day workshop as a Subject Matter Expert for the purpose of exam development of the California Law and Professional Practice Examination shall receive a maximum of sixteen (16) hours of continuing education credit which includes eight (8) hours in the Ethics and Law and eight (8) hours in the Principles of Practice subject areas as defined in sections 361(g)(11) and 361(g)(16)(A) respectively.

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

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

Authority cited: Sections 114.3 and 135.5 of the Business and Professions Code and Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 114.3 and 135.5 of the Business and Professions Code and Sections 1000-4(b), 1000-4(e) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

Edmund G. Brown Jr., Governor

APPLICATION FOR A LICENSE TO PRACTICE CHIROPRACTIC

FEES

Application Fee: $100.00
Fingerprint Card Fee: $49.00*
(Live Scan applicants pay fingerprint fee at time of service)

ALL FEES ARE NON-REFUNDABLE AND SHOULD BE MADE PAYABLE TO "BOCE"

*** Fee for Out of State Applicants Only – Contact the BOCE for Required Fingerprint Cards**

See instructions for completing and filing this application. Please read carefully and answer each question fully. Falsification or misrepresentation of any item or response on this application or any attachment hereto is grounds for denying a license. Please type or print legibly. If additional space is needed to answer any questions on this application, please attach the information on additional sheets of paper and submit with this application.

PERSONAL INFORMATION

NAME: Last First Middle

Other names you have used (include maiden name):

OFFICIAL MAILING/PUBLIC ADDRESS OF RECORD (Street Address, PO Box #, etc.): **(Will be released to the public once you are licensed)**

City State Zip Code

PRACTICE ADDRESS: Number and Street (if different from above)

City State Zip Code

Telephone Number (include area code) Home: Work:	Driver's License Number / State Expiration Date:
Date of Birth:	Social Security Number or Taxpayer Identification Number:
Gender: ☐ Female ☐ Male	e-mail (optional)

*** If you answer yes to either question A or B below, please provide official documentation. Documentation includes: military orders showing duty station; discharge papers or copies of current Leave and Earnings statements. For Question B, documentation also includes: copy of marriage certificate or certified declaration/registration of domestic partnership filed with the Secretary of State. For other forms of "legal union" not recognized by California, you may submit other documentary evidence of legal union issued by the State that recognizes your legal union for consideration.**

A. Have you ever served in the United States military? ☐ Yes* ☐ No	B. Are you a spouse, domestic partner or in a legal union with an active duty member of the U.S. Armed Forces stationed in California? ☐ Yes* ☐ No

PHOTOGRAPH

Affix a 2" x 2" passport style photo here

Photo must have been taken within the last 60 days

Altered photos are not acceptable

FOR OFFICE USE ONLY

Cashiered Date: _____

Amount Rec'd: _____

09A-1 (Rev. ~~06/14~~ 05/16)

EDUCATIONAL BACKGROUND

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

List all undergraduate schools attended:

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

Chiropractic college(s) attended:

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

PROFESSIONAL LICENSE INFORMATION

1. Have you ever filed an application for chiropractic examination or licensure in California?

☐ Yes ☐ No

If "Yes", please provide the year and outcome of the previous application.

2. Have you ever been licensed to practice chiropractic in any U.S. state or federal territory, or another country?

☐ Yes ☐ No

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

Jurisdiction	License Number	Date of Issuance	Dates of Practice

3. Do you hold or have you ever held any other professional license in any U.S. state or federal territory or another country?

☐ Yes ☐ No

Profession:	Issuing Agency:	License No.:

For purposes of responding to the following question (3A), "discipline" is an administrative action that resulted in a restriction or penalty being placed on any professional license you have or have possessed, such as revocation, suspension, probation, consent order, or reprimand.

3A. If you answered "Yes" to Question Nos. 2 or 3, has this license ever been revoked, suspended or otherwise subjected to discipline?

☐ Yes ☐ No

If "Yes", provide all official documentation regarding the matter in addition to a written explanation.

Applicant Initial Here

DISCIPLINARY HISTORY

If you answer "Yes" to questions 4 through 11, provide official certified hearing/court documents AND your written personal explanation on a separate attachment. Failure to provide all required documents with this application will result in the application being deemed incomplete.

For all questions below, "licensing agency" includes any disciplinary actions by any U.S. State, federal territory, other country, the U.S. Military, U.S. Public Health Service, or other agency of the U.S. Federal Government :

4. A. Have you ever been charged with, or been found to have committed unprofessional conduct, professional incompetence, gross negligence, or repeated negligent acts or malpractice by this or any other licensing agency or hospital?

☐ Yes ☐ No

B. If you answered "No" to the above question, is any such action pending?

☐ Yes ☐ No

5. Have you ever withdrawn an application for licensure to practice chiropractic in lieu of denial or disciplinary action by this or another licensing agency? ☐ Yes ☐ No

For purposes of responding to this question, "disciplinary action" is an administrative action that resulted in a restriction or penalty being placed on any professional license you have or have possessed, such as a revocation, suspension, probation, consent order, or reprimand.

6. A. Have you ever been denied permission to take an examination for a license to practice chiropractic or other professional license by this or another licensing agency?

☐ Yes ☐ No

B. If you answered "No" to the above question, is any such action pending?

☐ Yes ☐ No

7. A. Have you ever voluntarily surrendered a license to practice chiropractic or any other professional license?

☐ Yes ☐ No

B. If you answered "No" to the above question, is any such action pending?

☐ Yes ☐ No

8A. Have you ever been denied a license to practice chiropractic or any other profession by this or any other licensing agency? ☐ Yes ☐ No

B. If you answered "No" to the above question, is any such action pending?

☐ Yes ☐ No

9. Has a claim or action for damages ever been filed against you in the course of the practice of chiropractic or any other healing art which resulted in malpractice settlement, judgment, or arbitration award of over $3,000.00?

☐ Yes ☐ No

If you answer "Yes" to questions 10 or 11 attach a written DETAILED explanation, obtain a certified copy of the arrest report and include CERTIFIED copies of all court documents for each conviction. Include proof of completion of any terms of parole, probation, restitution or any other sanctions imposed against you.

10. Have you ever been convicted or pled guilty or pled nolo contendere to ANY offense (include every misdemeanor or felony) of any local, state, or federal law of any state, territory, foreign country, or U.S. federal jurisdiction? ☐ Yes ☐ No

This includes every citation, infraction, misdemeanor and/or felony, including traffic violations of $500 or more. NOTE: Convictions that were adjudicated in the juvenile court, dismissed per Penal Code section 1000.3, or convictions two years or older under California Health and Safety Code sections 11357(b),(c),(d), (e) or section 11360(b) should NOT be reported. Convictions that were later expunged from the records of the court or set aside pursuant to sections 1203.4, 1203.4a, or 1203.41 of the California Penal Code or equivalent non-California law MUST be disclosed.

Proof of Dismissal: If you have obtained a dismissal of your conviction(s) pursuant to Penal Code sections 1203.4, 1203.4a, or 1203.41, please submit a certified copy of the court order dismissing the conviction(s) with your application.

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

PRACTICE IMPAIRMENT OR LIMITATIONS

12. Do you have a current physical or mental impairment related to drugs or alcohol? ☐ Yes ☐ No

13. Have you been adjudicated by a court to be mentally incompetent or are you currently under a conservatorship? ☐ Yes ☐ No

If "Yes", provide a detailed explanation of the circumstances, date and time of the court order or the duration of the conservatorship.

Applicant Initial Here

NOTICE: Falsification or misrepresentation of any item or response on this application or any attachment hereto is grounds for denying or revoking a license.

Application Declaration / Signature

I hereby certify under penalty of perjury under the laws of the State of California to the truth and accuracy of the foregoing information contained on this application, including any attachments. I also certify that I personally read and completed this application and have read the instructions.

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

Signed on this _____ day of _____
MONTH YEAR

Mail your application, attachments and fees to:

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

NOTICE REGARDING INFORMATION COLLECTION AND ACCESS

The information requested in the application and instructions is mandatory and is authorized to be collected in accordance with Sections 4 and 5 of the Chiropractic Initiative Act of California ('Act'), Business and Professions Code sections 115.5, 141, and 802(a) and Government Code section 11019.11 and Sections 303, 304, 317, 321.1, 322, 325, 326, 331.12.1 and 331.12.2 of Title 16, California Code of Regulations. The information requested will be used to determine qualifications for licensure and compliance with the requirements of the Act. Failure to provide all or any part of the requested information will result in the rejection of the application as incomplete. ~~Disclosure of your social security number or Taxpayer Identification Number is mandatory and collection is authorized by §30 of the Business and Professions Code and Pub. L 94-455 (42 U.S.C.A. §405(c)(2)(C)). Your Social Security number or Taxpayer Identification Number will be used exclusively for tax enforcement purposes, for compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code, or for verification of licensure or examination status by a licensing or examination board, and where licensing is reciprocal with the requesting state. If you fail to disclose your Social Security number or Taxpayer Identification Number, you may be reported to the Franchise Tax Board and be assessed a penalty of $100.~~ *Disclosure of your tax identification number is mandatory. You may provide either your Social Security Number, Federal Employer Identification Number, or Individual Taxpayer Identification Number, as applicable. This number must match the number you provide on your fingerprint forms. Section 30 of the Business and Professions Code and Public Law 94-45 5 (42 USCA 405 (c)(2)(c) authorizes collection of your tax identification number, which will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgment or order for family support in accordance with section 17520 of the Family Code, or for verification of licensure or examination status by a licensing or examination entity which utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your tax identification number, your application for initial or renewal license will not be processed AND you will be reported to the Franchise Tax Board, which may assess a $100 penalty against you.* Per California Civil Code Section 1798.17 (Information Practices Act), the Executive Officer of the Board is responsible for maintaining information in this application. Each individual has the right to review the personal information maintained by the agency unless the records are exempt from disclosure under Civil Code 1798.40. Requests for information may be addressed to the custodian of records at the following: Board of Chiropractic Examiners, 901 P Street, Suite 142A, Sacramento, CA 95814, (916) 263-5355.

Your name and official mailing address listed on this application will be disclosed to the public upon request if and when you become licensed as required by Business and Professions Code section 27.

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

Per sections 115.4 and 115.5 of the Business and Professions Code, the licensure process will be expedited for spouses of active duty military who are stationed in California and who hold a current license in another state, district or territory of the United States.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

Edmund G. Brown Jr., Governor

CHIROPRACTIC COLLEGE CERTIFICATE

NAME OF APPLICANT: _____
Last First Middle

Subject	Minimum Hours Required	Hours Completed by Applicant
Anatomy, including embryology, histology, and human dissection	616	
Physiology (must include laboratory work)	264	
Biochemistry, clinical nutrition, and dietetics	264	
Pathology, bacteriology, and toxicology	440	
Public health, hygiene and sanitation, and emergency care	132	
Diagnosis	792 including: 1) E.E.N.T. 2) Serology 3) Dermatology 4) Syphilology 5) Geriatrics 6) X-ray interpretation 7) Neurology	
Obstetrics, gynecology and pediatrics	132	
Principles and practice of chiropractic	518 including: 1) Chiro.technique 2) Chiro.philosophy 3) Orthopedics 4) X-ray technique & radiation protection 5) 430 clinic hours including office procedures	
Physiotherapy	120	
Psychiatry	32	
Total Hours (include required subjects and electives)	4,400	

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

Clinical Experience	Minimum Hours Required	Hours Completed by Applicant
1) Physical Examinations	25 (10 NOT student patients)	
2) Urinalysis	25	
3) CBC's	20	
4) Blood chemistries	10	
5) X-ray examinations	30	
6) Proctological examinations	10	
7) Gynecological examinations	10	
8) Patient treatments including diagnostic, adjustive technique, and patient evaluation	250	
9) Written interpretation of X-ray (film or slide)	30	
10) Practical clinical experience hours	518	
11) Physiotherapy procedures performed by the student on their own clinic patients	30	

Affidavit

I hereby certify that I am in possession and control of the records of students' attendance of the _____ Chiropractic College and said records disclose that the aforementioned student entered this institution on the _____ day of _____, _____ and graduated on the day of _____, _____, _____, completing _____ school terms of _____ months resident student enrollment. This student completed the hours documented on the table above. These hours include resident and transfer credit granted toward the degree of Doctor of Chiropractic. I hereby certify under penalty of perjury that the information reported on this College Certificate is true and correct.

_____ PRINT NAME

_____ TITLE

_____ CHIROPRACTIC COLLEGE

_____ CITY, STATE

_____ SIGNATURE

_____ DATE

(AFFIX COLLEGE SEAL)

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

Edmund G. Brown Jr., Governor

VERIFICATION OF PRECHIROPRACTIC HOURS

NAME OF APPLICANT: _____
Last First Middle

Date of Birth: _____ Last Four Digits of SSN: _____

Matriculation Date: _____ Total Semester Credits: _____

Pursuant to the Chiropractic Initiative Act section 5, each applicant for licensure must have satisfactorily completed prechiropractic college credits prior to matriculation into the Doctor of Chiropractic program. These credits must be in accordance with the standards adopted by the Council on Chiropractic Education. Below provide the name(s) of colleges where the units were completed.

LIST NAME(S) OF COLLEGES AND/OR UNIVERSITIES ATTENDED (if additional space is needed attach a separate sheet)

1.	2.
3.	4.
5.	6.

I certify that the above named individual, did satisfactorily meet or exceed, the prechiropractic college credits required prior to matriculation into the Doctor of Chiropractic program. 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.

Only the President, Dean or Registrar of the college may sign this form.

PRINT NAME _____ TITLE _____ DATE _____

SIGNATURE _____ CHIROPRACTIC COLLEGE _____ PHONE # _____

CITY, STATE _____

(Place imprint of the Chiropractic School Seal anywhere within this area)

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

TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS
DEPARTMENT OF CONSUMER AFFAIRS

PROPOSED LANGUAGE

Amend Section 306 of Division 4 of Title 16 of the California Code of Regulations to read:

§ 306. Delegation of Certain Functions.

(a) The power and discretion conferred by law upon the Board to initiate, review and prosecute accusations and statements of issues pursuant to Sections 11500 through 11528 of the Government Code and to approve settlement agreements for the revocation, surrender or interim suspension of a license and perform all other functions necessary to expedite the business of the Board are hereby delegated to and conferred upon the Board's Executive Officer and, in the absence thereof, the Assistant Executive Officer. ~~of the board to receive and file accusations; issue notices of hearing, statements to respondent, statements of issues, subpoenas, and subpoenas duces tecum; receive and file notices of defense; set and calendar cases for hearing; certify and deliver or mail copies of decisions; and perform other functions necessary to expedite the business of the board in connection with the conduct of the proceedings mentioned in Section 305 hereof in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, are hereby delegated to the Executive Officer.~~

(b) It shall be the duty of the Board's Executive Officer and, in the absence thereof, Assistant Executive Officer to plan, direct and organize the work of the staff; attend Board meetings and hearings; consult with and make recommendations to the Board; notify applicants of their success or failure on examinations; and prepare reports and direct and supervise the Board staff concerning enforcement of the Act.

NOTE: Authority cited: Sections 1000-3, 1000-4(b), ~~and~~ 1000-4(e), and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p.1xxxviii). Reference: Section 1000-3, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p.1xxxviii).

Amend Section 389 of Division 4 of Title 16 of the California Code of Regulations to read:

§ 389. Letter of Admonishment.

(a) The Executive Officer, or ~~his or her designee,~~ Assistant Executive Officer, may issue a letter of admonishment to a licensee for failure to comply with any provision of the Act, statute or regulations governing the practice of chiropractic.

(b) The letter of admonishment shall be in writing and shall describe in detail the nature and facts of the violation, including a reference to the Act, statute or regulation violated and may contain an order of abatement.

(c) The letter of admonishment shall be served upon the licensee personally or by certified United States mail at the licensee's address of record with the board. If the licensee is served by certified United States mail, service shall be effective upon deposit in the United States mail.

(d) The letter of admonishment shall inform the licensee that within 30 days of the date of the letter the licensee may do either of the following:

(1) Submit a written request for an office conference to the Executive Officer of the board to contest the letter of admonishment.

(A) Upon a timely request, the Executive Officer, or ~~his or her designee,~~ Assistant Executive Officer, shall hold an office conference with the licensee or the licensee's legal counsel or authorized representative. Unless so authorized by the Executive Officer, or ~~his or her designee,~~ Assistant Executive Officer, no individual other than the legal counsel or authorized representative of the licensee may accompany the licensee to the office conference. Upon request and approval by the Executive Officer or ~~his or her designee,~~ Assistant Executive Officer, the licensee may participate in the office conference by telephone.

(B) Prior to or at the office conference, the licensee may submit to the Executive Officer declarations and documents pertinent to the subject matter of the letter of admonishment.

(C) The Executive Officer, or ~~his or her designee,~~ Assistant Executive Officer, may affirm, modify, or withdraw the letter of admonishment. Within 14 calendar days from the date of the office conference, the Executive Officer, or ~~his or her designee~~ Assistant Executive Officer, shall personally serve or send by certified United States mail to the licensee's address of record with the board a written decision. This decision shall be deemed the final administrative decision concerning the letter of admonishment.

(D) Within thirty days of service or mailing of the written decision, the licensee shall comply with the letter of admonishment and, if the letter of admonishment contains an order of abatement, the licensee shall submit documentation to the Executive Officer documenting compliance with the order.

(2) Comply with the letter of admonishment and, if the letter of admonishment contains an order of abatement, the licensee shall submit documentation to the Executive Officer documenting compliance with the order.

Note: Authority cited: Sections 125.9 of the Business and Professions Code, Sections 1000-3, 1000-4(b), and 1000-10, Business and Professions Code~~; and~~ (Chiropractic Initiative Act of California, Stat. 1923, p. lxxxviii). Reference: Sections 1000-3, 1000-4(b) and 1000-10, Business and Professions Code~~; and~~ (Chiropractic Initiative Act of California, Stat. 1923, p. lxxxviii).

Amend Section 390 of Division 4 of Title 16 of the California Code of Regulations to read:

§390. Issuance of Citations and Fines.

(a) The Executive Officer of the board or ~~his or her designee~~ Assistant Executive Officer may issue a citation containing an order to pay a fine between $100 and $5,000 and an order of abatement against a licensee for any violation of the Act or the California Code of Regulations or any laws governing the practice of chiropractors. A citation may be issued without the assessment of a fine, when determined by the Executive Officer or ~~his or her designee~~ Assistant Executive Officer.

(b) Each citation shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the law or regulation alleged to have been violated.

(c) The citation shall be served upon the cited person either personally or by certified United States mail.

Note: Authority cited: Sections 125.9 of the Business and Professions Code, 1000-4(b), and 1000-10, Business and Professions Code~~; and~~ (Chiropractic Initiative Act of California, Stats. 1923, p.1xxxviii). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code~~; and~~ (Chiropractic Initiative Act of California, Stats. 1923, p.1xxxviii).

Amend Section 390.3 of Division 4 of Title 16 of the California Code of Regulations to read:

§390.3. Citations for Unlicensed Practice.

The Executive Officer or ~~his/her designee~~ Assistant Executive Officer may issue a citation against any unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the board and who is not otherwise exempt from licensure. Each citation may contain an order of abatement fixing a reasonable period of time for an abatement and an order to pay a fine not to exceed $5,000 for each violation. Any sanction authorized for activity under this section shall be separate from and in addition to any other civil or criminal remedies.

Note: Authority cited: Sections 125.9 of the Business and Professions Code, 1000-4(b), 1000-4(e), and 1000-10, Business and Professions Code~~; and~~ (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code~~; and~~ (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

Amend Section 390.4 of Division 4 of Title 16 of the California Code of Regulations to read:

§390.4. Contested Citations.

(a) The citation shall inform the licensee that if he/she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 calendar days of the date of issuance of the citation. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) In addition to requesting a hearing provided for in subdivision (a) of this section, the cited person may, within 14 calendar days after service of the citation, submit a written request for an informal conference with the Executive Officer.

(c) The Executive Officer or ~~his/her designee~~ Assistant Executive Officer shall, within 30 calendar days from receipt of the written request, hold an informal conference with the person cited and/or his/her legal counsel or authorized representative.

(d) The Executive Officer or ~~his/her designee~~ Assistant Executive Officer may affirm, modify or dismiss the citation, at the conclusion of the informal conference. A written decision stating the reasons for the decision shall be mailed to the cited person and his/her legal counsel, if any, within 14 calendar days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the citation issued.

(e) If the citation is dismissed, the request for a hearing shall be deemed withdrawn. If the citation is affirmed or modified, the cited person may, in his/her discretion, withdraw the request for a hearing or proceed with the administrative hearing process.

Note: Authority cited: Sections 125.9~~,~~ of the Business and Professions Code, 1000-4(b), 1000-4(e) and 1000-10, Business and Professions Code~~; and~~ (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code~~; and~~ (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

Amend Section 390.5 of Division 4 of Title 16 of the California Code of Regulations to read:

§390.5. Compliance with Citation/Order of Abatement.

(a) Orders of abatement may be extended for good cause. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his/her control after the exercise of reasonable diligence, the person cited may request an extension of time from the Executive Officer or ~~his/her designee~~ Assistant Executive Officer in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When a citation or order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation within the time allowed or pay the fine that is imposed, if one was, shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to timely comply with an order of abatement or pay a fine that is imposed is unprofessional conduct and may result in disciplinary action being taken by the board.

Note: Authority cited: Sections 125.9 of the Business and Professions Code, 1000-4(b), 1000-4(e) and 1000-10, Business and Professions Code~~; and~~ (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code~~; and~~ (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS
Proposed Omnibus Consumer Protection Regulations

§303. Filing of Addresses.

(a) Each person holding a license ~~to practice chiropractic in the State of California under any and all laws administered by the board~~ shall file with the board his or her proper and current ~~place of~~ physical practice address ~~of his principal office~~ and, where appropriate, each and every ~~sub-office~~ satellite office~~, with the board at its office in Sacramento and shall immediately notify the board at its said office of any and all changes of place of practice address, giving both his old and his new address within 30 days of change~~. If a licensee does not have a practice address, the licensee may file with the board his or her proper and current residential address. The address provided pursuant to this paragraph shall be public information unless the licensee also submits an alternate address pursuant to paragraph (b).

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

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

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

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

~~The revocation, suspension, or other discipline by another state of a license or certificate to practice chiropractic, or any other health care profession for which a license or certificate is required, shall constitute grounds for disciplinary action against a chiropractic licensee or grounds for the denial of chiropractic licensure of an applicant in this state.~~

(a) Any disciplinary action taken against a licensee by another licensing entity or authority of this state or of another state or an agency of the federal government or province thereof, or the United States Military or a foreign government or any other jurisdiction shall constitute unprofessional conduct.

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

Note: Authority cited: Sections 1000-4(b) and 1000-10(a), ~~of the~~ Business and Professions Code (Chiropractic Initiative Act of California, ~~(~~Stats. 1923, p. lxxxviii). Reference: Sections 1000- 4(b) and 1000-10(a), ~~of the~~ Business and Professions Code (Chiropractic Initiative Act of California, ~~(~~Stats. 1923, p. lxxxviii).

§306.3. Investigators; Authority to Inspect Premises.

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

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

§308. Display of License.

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

(b) Any licensed ~~D~~doctor of ~~C~~chiropractic with more than one place of practice shall obtain from the board a Satellite Office Certificate for each additional place of practice. Said certificate must be renewed annually.

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

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

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

NOTE: Authority cited: Section 104 of the Business and Professions Code and Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Section 104 of the Business and Professions Code and Sections 1000-5, 1000-7 and 1000-12, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

308.1. Notice to Consumers

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

Notice to Consumers

Chiropractic doctors are licensed and regulated by the Board of Chiropractic Examiners

(916) 263-5355

www.chiro.ca.gov

(b) The notice required by this section shall be provided by one of the following methods:

(1) Prominently posting the notice in an area visible to patients on the premises where the licensee provides the licensed services, in which case the notice shall be in at least 40-point type in Arial font.

(2) Including the notice in a written statement, signed and dated by the patient or the patient's representative and retained in the patient's medical records, stating the patient understands the chiropractor is licensed and regulated by the board.

(3) Including the notice in a statement on letterhead, discharge instructions, or other documents given to a patient or the patient's representative, where the notice is placed immediately above the signature line for the patient in at least 14-point type.

NOTE: Authority cited: Sections 138 of the Business and Professions Code and 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Section 138 of the Business and Professions Code and 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

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

~~Unlicensed individuals are not permitted to diagnose, analyze, or perform a chiropractic adjustment.~~ An "unlicensed individual" is defined as any person, including a student or graduate of a chiropractic institution, who does not hold a valid California chiropractic license. An exemption is hereby created for student doctors participating in board approved preceptorship programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§314. Law Violators.

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

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

§317.2. Gag Clauses in Civil Agreements Prohibited.

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

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

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

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

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

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

§317.3. Licensee Reporting Requirements.

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

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

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

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

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

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

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

§321.1. Physical or Mental Examination of Applicants.

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

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

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

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

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

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

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

(b) In reaching its determination the board may consider various factors including the following:

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

(2) Prior disciplinary and criminal actions also taken against the petitioner by the board, any local, state, or federal entity, territory, foreign country, or U.S. federal jurisdiction:
(A) The petitioner's compliance with all terms of probation, parole, previous discipline or other lawfully imposed sanctions including any order of restitution.
(B) Whether the petitioner is currently on or has been terminated from probation or other lawfully imposed sanction.
(C) The petitioner's legal and regulatory history to and since the violation(s).

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

(4) The petitioner's documented rehabilitative efforts including:
(A) Efforts to maintain and/or upgrade professional skills and knowledge through continuing education or other methods.
(B) Efforts to establish safeguards to prevent repetition of the original violation(s) including changes or modifications in policies, structure, systems, or methods of behavior applicable to the petitioner's chiropractic practice.
(C) Service to community or charitable groups.
(D) Voluntary restitution to those affected by the original violation(s).
(E) Use of appropriate professional medical or psychotherapeutic treatment.
(F) Participation in appropriate self-help and/or rehabilitation groups.

(G) Use of appropriate peer review mechanisms.
(H) Participation in professional chiropractic organizations or associations.

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

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

(e) A petition for reinstatement shall be submitted on an application form (Form # 09PRRL – Revised 12/2012) prescribed and provided by the board, and titled "Petition for Reinstatement of Revoked License," accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento.

(f) A petition for early termination of probation shall be submitted on an application form (Form # 09PTP – Revised 12/2012) prescribed and provided by the board, and titled "Petition for Early Termination of Probation," accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento.

(g) A petition for reduction of penalty shall be submitted on an application form (Form # 09PRP – Revised 12/2012) prescribed and provided by the board, and titled "Petition for Reduction of Penalty," accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento.

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

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

§390.7. Sexual Contact With Patient.

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

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

§390.8. Required Actions Against Registered Sex Offenders.

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

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

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

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

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

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that

requires his or her registration as a sex offender, provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to deny or discipline a license under any other provision of state law.

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

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to [insert effective date]. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

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

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

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

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

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to [insert effective date]. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

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